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OPNAVINST 5090.1B
1 November 1994

Environmental and Natural Resources Program Manual

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IN REPLY REFER TO

OPNAVINST 5090.1B
N45
1 November 1994

OPNAV INSTRUCTION 5090.1B

From: Chief of Naval Operations

Subj: ENVIRONMENTAL AND NATURAL RESOURCES PROGRAM MANUAL

1. Purpose

a. To discuss requirements, delineate responsibilities, and issue policy for the management of the environment and natural resources for all Navy ships and shore activities.

b. This is a significant revision to the Environmental and Natural Resources Program Manual, and the manual should be reviewed in its entirety.

2. Cancellation

a. OPNAVINST 5090.1A.

b. Shoreside Cost of Compliance Report, Report symbol OPNAV 5090-10

c. Ship's Cost of Compliance Report, Report Symbol OPNAV 5090-11

d. PCB Inventory Form, OPNAV 5090/1 (REV 3-83)

e. Solid and Hazardous Waste Annual Report Form, OPNAV 5090/2 (Rev 3-83).

3. Discussion

a. The Navy's ability to accomplish its mission requires daily operations in the land, sea, and air environments. The Navy is committed to operating in a manner compatible with the environment. National defense and environmental protection are and must continue to be compatible goals. Therefore, an important part of the Navy's mission is to prevent pollution, protect the environment, and protect natural, historic, and cultural resources. In order to accomplish this mission element, personnel must be aware of the environmental and natural resources laws and regulations which have been established by Federal, State, and local governments. The Navy chain of command must provide leadership and a personal commitment to ensure that all Navy personnel develop and exhibit an environmental protection ethic.

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b. The number of environmental regulations has increased significantly in recent years, and these regulations are in a continuous state of change. This instruction discusses Federal regulations, Department of Defense (DoD) requirements, and Navy requirements which apply to Navy ships and shore activities. In addition, shore activity personnel must ensure they are aware of, understand, and comply with the additional requirements imposed upon their activities by State and local governments. This instruction addresses procedures by which ships will be made aware of the applicable State and local requirements for U.S. ports in which they may be moored.

c. Summary of Changes

(1) This instruction has been revised to describe recent changes in environmental legislation, regulations, and enforcement which have taken place since the issuance of OPNAVINST 5090.1A in October, 1990. It also describes command responsibilities for environmental management, and describes updated funding procedures.

(2) The instruction contains 25 chapters in lieu of the 20 contained in the previous instruction. Previous Chapters 1, 2, and 3 have been combined into a single new chapter titled "Environmental Policy, Organization and Funding." The previous Chapter 9 titled "Hazardous Waste and PCB Management Ashore" has been divided into two Chapters, 11, and 12, titled "PCB Management Ashore" and "Hazardous Waste Management Ashore," respectively. New chapters have been added for "Pollution Prevention," (Chapter 3), "Procedures for Implementing the Emergency Planning and Community Right to Know Act" (Chapter 4), the "Management of Ozone Depleting Substances" (Chapter 6), "Overseas Environmental Compliance Ashore", (Chapter 18), and "Environmental and Natural Resources Training" (Chapter 24). "Sampling and Laboratory Testing" (Chapter 25) text will be included in a future change of this instruction.

(3) Other important changes in this instruction include:

(a) Direction is given to reflect the passage of legislation since the last update of OPNAVINST 5090.1A in 1990. Some Acts of note include: the Federal Facility Compliance Act (FFCA), the Oil Pollution Act of 1990 (OPA 90), the Pollution Prevention Act of 1990 (PPA), and the Water Resources Development Act of 1992.

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(b) Major revision of the Clean Air Ashore chapter reflects the impact on the Navy of the Clean Air Act Amendments of 1990 (Chapter 5).

(c) Guidance on ship environmental operations has been updated and reformatted (Chapter 19).

(d) New appendices have been added: Appendix E, "Environmental Effects Abroad of Major Navy Actions," Appendix F, "Chief of Naval Operations Interim Guidance on Compliance With the Clean Air Act General Conformity Rule," (text to be added in a future change of this instruction) and Appendix G, "Guidance on Developing Activity Pollution Prevention Programs and Implementing Pollution Prevention Program Elements."

4. Action

a. This instruction is applicable to all Navy commands afloat and ashore. The policies, procedures, and actions required are published without the necessity for further implementing instructions from the various commands, bureaus, and offices, except as specifically directed. However, organizations that have significant environmental or natural resources responsibilities may find it necessary to provide additional guidance and supplemental instructions specific to their local area.

b. Addressees shall enhance the quality of the environment, prevent environmental pollution, and provide the necessary direction to ensure the provisions of this instruction are implemented on a continuous basis.

c. The policies and responsibilities of this instruction are effective on the date of signature. All commands shall implement the requirements of this instruction into their operations in an expeditious manner. Monitoring of the implementation of this instruction shall be a part of the Environmental Compliance Evaluations (ECEs) described in Chapter 20.

5. Reports and Forms

a. The following reports are required by this instruction and are approved for 3 years from the date of this instruction:

(1) Air, Water, Solid Waste, Noise, Pesticide and Radiation Pollution Control (A-106) Report, Report Symbol DD-A&T (A)1383(5090), Chapter 1.

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(2) Status of Elimination of ODSs in Specifications and Standards, OPNAV 5090-7, Chapter 6.

(3) Oil Spill Report, Report Symbol OPNAV 5090-2 (MIN CONSIDERED), Chapter 10 and Appendix H.

(4) Hazardous Substance Release Report, Report Symbol OPNAV 5090-3 (MIN CONSIDERED), Chapter 10 and Appendix I.

(5) Annual PCB Inventory, Report Symbol OPNAV 5090-1, Chapter 11.

(6) Annual Solid and Hazardous Waste Report, Report Symbol DD-A&T (SA) 1485 (5090), Chapters 12 and 14.

(7) Annual Pest Management Data Systems Report for Indoor and Outdoor Operations, Report Symbol DD-M(A&R) 1080, Chapter 13.

(8) Report of Receipt of Notice of Violation or Noncompliance, Report Symbol 5090-4, Chapter 20 and Appendix B.

(9) Environmental Compliance Evaluation Report, Report Symbol OPNAV 5090-5, Chapter 20.

(10) Burial at Sea Report, Report Symbol OPNAV 5090-9, Chapter 21.

(11) Target Vessel Sinking Report, Report Symbol OPNAV 5090-12, Chapter 21.

b. The OPREP reports required by this instruction are exempt from reports control by SECNAVINST 5214.2B.

c. The following forms are available from the Navy supply system and may be requisitioned per NAVSUP P-2002D.

FORM	TITLE	STOCK NUMBER
DD 1348-1 (7/91)	DoD Single Line Item Release/ Receipt Document	0102-LF-013-7500
DD 2521 (12/88)	Hazardous Material Warning Label	0102-LF-012-0800
DD 2522 (12/88)	Hazardous Material Warning Label	0102-LF-012-1100

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d. DD 2530 (12-92), Ozone Depleting Chemicals Annual Report, is enclosed as Table 6.3.

e. SF 298 (2-89), Report Documentation Page, NSN 7540-01-280-5500, may be obtained from General Services Administration.

f. The Annual Emergency and Hazardous Chemical Inventory Form, (Tier I or Tier II) can be obtained by writing to: EPCRA Hotline at U.S. EPA, 401 M Street, SW (OS-120), Washington, D.C. 20460 or calling toll-free 1-800-535-0202.

g. EPA Form 8700.13A Biannual Report, EPA Form 8700.13B, Unmanifested Waste, and EPA Form 9350-1 (Form R), Toxic Release Inventory (TRI) Reporting, can be obtained by writing to: Document Distribution Center, P.O. Box 12505, Cincinnati, OH, 45212.

h. State Underground Storage Tank/Above-ground Storage Tank (UST/AST) Notification Forms can be obtained by the cognizant State department of environmental regulation.

i. National Register Forms may be obtained from the cognizant State Historic Preservation Office or the National Park Service at 1-202-343-9559 or 9550.

S. R. ARTHUR

Vice Chief of Naval Operations

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INTRODUCTION

1. This manual provides Navy policy, identifies key statutory and regulatory requirements, and assigns responsibility for management of Navy Environmental and Natural Resources programs.

2. Most chapters are organized around a common format, with two exceptions as follows:

a. Chapter 1 is Environmental Policy, Organization and Funding. Section 1-1 describes Scope, section 1-2 contains **Policy**, section 1-3 describes the Navy's environmental **Organization**, section 1-4 provides guidance on **Funding**, and section 1-5 assigns **Responsibilities**.

b. Chapter 19 applies only to ships and covers all media, so the format of this chapter is necessarily different from the other technical or media chapters. Chapter 19 is arranged as follows: **19-1 Scope, 19-2 General, 19-3 Sewage, 19-4 Air, 19-5 Oil and Oily Waste, 19-6 Hazardous Waste and Hazardous Material, 19-7 Solid Waste, 19-8 Medical Waste, 19-9 Oil and Hazardous Substances, 19-10 Ship Ballast Water and Anchor System Sediment Control, 19-11 Protection of Marine Mammals, 19-12 Floating Drydocks, 19-13 Noise, 19-14 Responsibilities.** Within each section of Chapter 19 is a description of applicable legislation, terms and definitions, Navy policy, applicable procedures, and training requirements.

3. All other chapters are organized as follows:

Section **XX-1 Scope**
Section **XX-2 Legislation**
Section **XX-3 Terms and Definitions**
Section **XX-4 Requirements**
Section **XX-5 Navy Policy**
Section **XX-6 Responsibilities**

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CHAPTER 1

ENVIRONMENTAL POLICY, ORGANIZATION AND FUNDING

1-1 Scope

1-1.1 Manual. This manual provides Navy policy, identifies key statutory and regulatory requirements, and assigns responsibility for management of Navy programs for:

a. Cleanup of waste disposal sites

b. Compliance with current laws and regulations for the protection of the environment, natural resources, and cultural and historic resources

c. Conservation of natural resources

d. Pollution prevention

e. Technology.

These programs are listed neither in order of importance nor priority. Within the Department of Defense (DoD), these five program areas are referred to as C^3P^2+T.

1-1.2 Coordination. This manual has been coordinated with the Commandant of the Marine Corps, but does not apply to Marine Corps activities.

1-1.3 Applicability. The policies and procedures in this manual apply to shore activities within the United States, territories, commonwealths, and possessions. The policies in Chapter 19 apply to ship operations worldwide. Other policies and procedures in this manual, including those regarding the National Environmental Policy Act (NEPA), are applicable to ships and Navy operations only within the territorial seas of the U.S. unless expressly stated otherwise. Navy policy for overseas shore activities is provided in Chapter 18. This instruction describes the internal management of the Navy's environmental program, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by any party against the Department of the Navy (DON), its officers, employees, or any person.

1-1.4 Precedence. This instruction is the primary guidance for Navy policies and procedures for managing environmental and natural resource programs, and any apparent conflict between this instruction and other Navy instructions, manuals and similar directives on environmental and natural resource programs will be resolved in favor of this instruction. This instruction was designed to be and will be construed to be consistent with all applicable statutes, Executive Orders (EOs), Department of Defense (DoD) directives and Department of Navy (DON) instructions.

1-1.5 References. Relevant references are:

a. 32 CFR 97, Release of Classified Information;

b. DoD Directive 4700.2 of 15 July 1988, Secretary of Defense Awards for Natural Resources and Environmental Management; (NOTAL)

c. DoD Directive 5405.2 of 23 July 1985, Release of Information and Litigation in Testimony by DoD Personnel as Witnesses; (NOTAL)

d. OPNAVINST 5400.2D, Jurisdiction of Area Coordinators; (NOTAL)

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e. OPNAVINST 5430.48D, Office of the Chief of Naval Operations (OPNAV) Organization Manual; (NOTAL)

f. OPNAVINST 5510.1H, Department of the Navy Information and Personnel Security Program Regulation; (NOTAL)

g. OPNAVINST 5510.155C, Classified Supplement to the Manual for Disclosure of Classified Military Information to Foreign Governments and International Organizations; (NOTAL)

1-2 Policy

1-2.1 General Requirements

a. The Chief of Naval Operations (CNO) has defined the Navy's environmental vision to be "Navy recognized as an environmental leader while effectively executing naval operations." The Navy's ability to accomplish its mission requires daily operations in the land, sea, and air environment. The Navy is committed to operating in a manner compatible with the environment. National defense and environmental protection are, and must be, compatible goals. The chain of command must provide leadership and personal commitment to ensure that all Navy personnel develop and exhibit an environmental protection ethic. Thus, an important part of the Navy's mission is to prevent pollution, protect the environment, and protect natural, historic, and cultural resources.

b. All Navy personnel (civilian and military), tenants, and contractors working for the Navy shall comply with all applicable Federal, State, local, and internal environmental policies, regulations, and requirements. Navy personnel shall obtain all necessary Federal, State, and local environmental permits for construction and operation of facilities and comply with permit terms and conditions. When, in the interest of national defense and/or a particular mission, a Navy command considers that compliance with an applicable requirement is impractical or inappropriate due to security considerations or impact on the military mission, the issue shall be referred to the Deputy Chief of Naval Operations (DCNO (Logistics) (N4)), via the chain of command. Presidential exceptions may be available under some statutes, but Navy policy is to achieve and maintain compliance with applicable laws and regulations. Compliance waivers shall be sought only as a last resort, and waivers will not be sought if DCNO (Logistics) considers compliance to be practicable. Compliance with environmental requirements is not waived while the request is pending.

1-2.2 Pollution Prevention. The preferred method of environmental protection shall be to eliminate or control, to the maximum extent feasible, the pollutant source per EO 12856. Means and methods for the elimination or minimization of pollutants shall be identified and, where possible, incorporated at the earliest stages of planning, design, and procurement of facilities, ships, aircraft, weapon systems, equipment, and material. Dedicated efforts shall be made to eliminate or minimize the use of hazardous materials (HM) and generation of hazardous waste (HW). Chapter 3 describes these programs in greater detail.

1-2.3 Statutory Requirements. Federal agencies may have to comply with the requirements of a law either because Congress has waived sovereign immunity and made Federal agencies subject to its provisions or because the President has directed by EO that agencies of the Executive Branch must comply with certain laws or portions of laws as a matter of policy. Most major environmental statutes contain waivers of sovereign immunity that require Federal agencies to comply with Federal, State and local environmental laws and provide for enforcement of Federal, State, and local substantive, procedural, and administrative requirements. Because the application of sovereign immunity waivers varies somewhat with specific situations, personnel should seek the advice of applicable Navy legal counsel. Requirements for the payment of fees, fines, or taxes are discussed in paragraph 1-4.3.

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1-2.4 Executive Requirements. EO 12088 requires the head of each Federal agency to comply with "applicable pollution control standards" defined as "the same substantive, procedural, and other requirements that would apply to a private person." It also requires Federal agencies to cooperate with the Environmental Protection Agency (EPA), State, and local environmental regulatory officials. Other EOs specific to each subject are referenced in subject chapters and in Appendix A.

1-2.5 Information Security. Navy shore activities are periodically visited by representatives of Federal, State, and local agencies who are exercising their regulatory authorities under environmental laws and regulations. Activities shall ensure that Navy regulations and Federal statutes governing the control and protection of classified and sensitive unclassified information are properly enforced while not interfering with the legitimate regulatory purpose being served. The following guidelines shall be used:

a. Only personnel with appropriate security clearances or access authorizations shall be permitted access to classified information, and then only upon a determination by the cognizant Navy official that a need-to-know exists to fulfill a legitimate regulatory purpose. In keeping with the need-to-know principle, such access shall be limited to classified information required to resolve the matter at hand. When access is permitted, arrangements must be worked out under reference (f) to assure continued protection of the information by the regulatory personnel.

b. Navy commands handle a considerable amount of sensitive unclassified information controlled under Navy security regulations, Federal Export Control regulations, and other government-wide requirements. While security clearances or access authorizations are not required for access to this information, a need-to-know determination shall be made as described above for classified information, and only U.S. citizens may be permitted access in most cases. The holder of the information shall ensure that the recipient understands and complies with applicable security regulations governing dissemination and protection of the information before permitting access.

c. Access to certain categories of classified and sensitive unclassified information requires special authority. Specifically, access to classified or unclassified naval nuclear propulsion information or to the propulsion plant spaces of nuclear powered ships requires the specific approval of the Director, Naval Nuclear Propulsion (N00N).

d. Because access to classified and sensitive unclassified information by regulatory personnel creates administrative burdens for both the Navy and the regulator, as described above, Navy commands are encouraged to satisfy the needs of regulatory personnel using information which is publicly releasable.

Subordinate commands shall ensure that these guidelines are reflected in instructions which they issue covering this area.

Information security regarding ships is addressed in Chapter 19.

1-2.6 GOCO Facilities. Navy offices or activities sponsoring government-owned-contractor-operated (GOCO) facilities shall exercise oversight through the facility's lease or management contracts to ensure that the operating contractor complies with applicable environmental regulations.

1-2.6.1 Facility Use Operations. Officially assigned major claimants for a GOCO plant shall exercise oversight through the facility's use or management contracts to ensure that the plant complies with environmental regulations. When a GOCO plant has no operating contractor or lessee, the major claimant for the GOCO plant shall comply with the requirements of this instruction. Officially assigned major claimant(s) for a leased

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property shall ensure that lease contract terms and conditions place full responsibility for environmental compliance on the lessee, and shall exercise appropriate oversight of the leased property to ensure lessee compliance with environmental regulations.

1-2.6.2 Operations, Facility Use, or Lease Agreements. These agreements shall require operation of all facilities and equipment under applicable substantive and procedural environmental requirements. Contractors shall obtain all necessary permits and sign the permits as operators unless otherwise directed by contract. Contractors shall advise the Navy of any permit, its conditions, and provide periodic compliance status reports as required by the managing Navy office. Each major claimant for assigned GOCO plants, non-excess GOCO plants, and non-excess military installations, and each Navy sponsor of a GOCO facility shall sign as owner for all environmental permits which each respective operating contractor or lessee of such assigned plant or facility is required to have per environmental regulations and laws. The landlord command shall develop a schedule and document periodic review of the environmental compliance of its lease and license holders.

1-2.6.3 Facilities Leased or Rented by the Navy. Facility use contracts, rental agreements or leases shall require the owner of facilities leased or rented by the Navy to be responsible for ensuring that the facilities comply with all applicable environmental requirements. The Navy activity renting/leasing the facility shall operate all facilities and equipment under all applicable substantive and procedural environmental requirements, obtain all necessary permits, and sign as operator, unless otherwise directed by contract.

1-2.7 Real Estate Purchase. The purchasing activity shall conduct a pre-purchase environmental survey and a property transaction audit which includes a Preliminary Assessment (PA) for potential hazardous waste contaminated sites. If a PA was done by the seller, then the purchasing activity shall review documents for accuracy to determine if an on-site survey is needed.

1-2.8 Regional/Community Programs. The Navy supports the participation of its employees and officers in regional and community programs to prevent pollution, address waste management issues, and to protect natural and cultural resources. Such participation may include advisory functions or planning of pollution control facilities where Navy shore activities can contribute to the subject to be addressed by that facility. When beneficial and authorized, the Navy may participate in funding of regional/community pollution control and solid waste management solutions. Before committing to participation, employees and commands shall seek the advice of Navy counsel.

1-2.9 Reporting Noncompliance. Immediately upon discovery, all Navy personnel shall report to the responsible command those matters which have the potential to fail, or do fail, to comply with environmental requirements. If the responsible command is unknown, the noncompliance shall be reported up the individual's chain of command until the responsible official is determined. If reprisal is of concern to the reporting individual, reports may be submitted to the Navy Hotline, (800) 522-3451. Notices of Violation (NOVs), Notices of Noncompliance (NONs), warning letters, warning notices, citizen suit notices, consent orders, or any other written or oral notice of deficiencies of Federal, State, interstate, or local environmental control laws or regulations shall be reported per the procedures of Appendix B. If necessary, assistance should be sought from the major claimant, the servicing Engineering Field Division (EFD), or the cognizant Regional Environmental Coordinator (REC). Navy policy is to effect prompt attention regarding areas not in compliance with applicable requirements. Such prompt attention is the best defense to possible criminal charges or individual penalties.

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1-2.10 Facility Inspections. Authorized Federal or State/local environmental regulators or representatives, upon presentation of proper credentials and subject to information security requirements of paragraph 1-2.5, shall be allowed to enter a Navy shore facility at reasonable times to examine or copy records, inspect monitoring equipment, inspect work being performed in regard to environmental/regulatory compliance, or sample any wastes or substances which they have the authority to regulate. Further, such inspections shall comply with information and facility security requirements set forth in reference (f) and paragraph 1-2.5. Activities shall notify the major claimant and the REC of all regulatory inspections and may request cognizant Naval Facilities Engineering Command (NAVFACENGCOM) organization or REC assistance at such inspections. Policy for inspections aboard ship is provided in Chapter 19.

1-2.11 Fleet/Shore Facility Relationship. When naval vessels or aircraft are present at a shore facility, commanding officers and personnel assigned to such vessels or aircraft shall comply with the host command's environmental protection policies developed under this instruction.

Compliance with local environmental requirements often requires specialized knowledge, expertise, or capability that afloat units may lack. To the maximum extent possible, shore commands and Regional Environmental Coordinators (RECs) shall provide to afloat units, upon request, such assistance as may be necessary to ensure environmental compliance by afloat units.

1-2.12 Consistency. Environmental regulations have increased exponentially in recent years. Navy shore activities are regulated by a wide variety of Federal, State, regional and local agencies. Requirements and interpretations vary widely. To ensure consistent responses to various agencies and to avoid adverse precedents, all commands shall ensure coordination of permit conditions, demands for payment of Navy funds compliance agreements, settlements, negotiations and responses to NOVs from environmental agencies with their major claimant and REC. Instructions for the processing of NOVs and associated chain of command responsibilities can be found in Appendix B. Interpretations or agreements likely to set precedents shall be immediately sent to CNO (N45) via the chain of command with copies to the REC and COMNAVFACENGCOM or applicable EFD or Engineering Field Activity (EFA).

1-2.13 Delegation. Navy personnel shall cooperate fully with Federal, State, and local officials and attempt to reach agreement on environmental compliance matters at the lowest level possible, keeping in mind the coordination requirements outlined above.

1-2.14 Host/Tenant Agreements. Commanding officers/officers in charge of host activities are responsible for all aspects of environmental, natural resources and cultural resource compliance on their bases. This responsibility cannot be delegated. All Navy hosts and tenants shall develop agreements, or include in existing agreements, roles and responsibilities with respect to environmental compliance. Such agreements shall include pollution prevention, environmental compliance evaluations (see Chapter 20), NEPA documentation (see Chapter 2), contact with regulatory agencies, payment of fines/fees, permit signatures/duties, HW management, emergency planning and community right-to-know implementation, training, corrective and/or response actions, etc. Where appropriate, environmental compliance boards of host and tenant management personnel shall be established. Authority for portions of environmental program management may be delegated to senior managers consistent with "by direction" signature authority, and authority may be delegated to tenant commands, but overall responsibility shall remain with the host commanding officer.

1-2.15 Release of Information. Release of activity specific data and information to agencies

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outside the Navy is governed by applicable law and information security requirements. Information requests shall be forwarded to the activity for release of the information by the commanding officer of the activity or cognizant major claimant.

1-2.16 Radioactive Material. Use and management of radioactive material shall comply with the applicable rules, regulations, and requirements of the Department of Energy (DOE), Nuclear Regulatory Commission (NRC), Department of Transportation (DOT), and EPA, and shall comply with the Naval Nuclear Propulsion Program for matters pertaining to nuclear propulsion. Any matters affecting or involving naval nuclear propulsion plants or nuclear support facilities or their associated radioactivity shall be coordinated with N00N. The Director, Naval Nuclear Propulsion shall coordinate such matters as appropriate with the cognizant REC.

1-2.17 Environmental and Natural Resources Training

a. All naval personnel, afloat and ashore, shall receive adequate education and training to ensure they understand their role within the Navy's program and to enable them to comply with applicable Federal, State and local environmental laws and regulations. Navy personnel shall receive environmental and natural resources training appropriate to their position or employment. At minimum, personnel must have a general awareness of Navy environmental and natural resources policies, as well as an awareness of the effects that their actions can have on the environment (see Chapter 24).

b. Commands shall ensure that counsel assigned to provide advice on environmental law issues comply with the training recommendations, including continuing legal education, established jointly by the General Counsel (GC) and the Judge Advocate General (JAG). Initial training should be completed enroute where possible. Commands shall also ensure that counsel assigned to provide advice on environmental law issues have access to reference material that complies with the joint recommendations of the GC and the JAG.

1-2.18 Representation of Federal Employees

a. If an employee or service member is named in a civil lawsuit in his or her official capacity, U.S. Department Of Justice (DOJ) representation will be provided.

b. If an employee or service member is named in a civil lawsuit in his or her personal capacity, DOJ representation may be requested and may be provided if DOJ determines that it reasonably appears that the employee or service member was acting within the scope of his or her official duties and that representation is in the best interests of the United States. DOJ will consider the Navy's recommendation in making such a determination. Consult with the local command counsel or Legal Officer on the proper procedures to request representation.

c. An employee or service member prosecuted for criminal violations of environmental laws in a Federal court will not normally be provided with representation by a DOJ or Navy attorney. Representation by a DOJ or Navy attorney may be available for a Federal employee or service member prosecuted for criminal violations in a State court if DOJ determines the actions that gave rise to the charges reasonably appear to have occurred in the performance of official Federal duties and such representation is in the best interests of the United States. Representation by a military attorney is available for service members prosecuted by court-martial.

1-2.19 Payment of Attorney Fees and Judgments. DOJ representation will be free of charge to the employee or service member. If the employee or service member is found personally liable, the employee or service member will be responsible for paying any judgment or penalty out of personal funds, regardless of whether DOJ

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provided representation. There are no specific provisions for reimbursing an employee or service member for judgments incurred.

1-3 Organization

1-3.1 Area Environmental Coordinators (AECs). AECs are responsible for coordination of environmental issues within their designated EPA region. (See Appendix C for the list of EPA regions.) AECs shall appoint RECs and Navy On-Scene Coordinators (NOSCs) within the AEC's area of responsibility (AOR). The Navy AECs are:

CINCLANTFLT:	EPA Regions I, II, III, and IV
CNET:	EPA Regions V and VI
COMNAVRESFOR:	EPA Regions VII and VIII
CINCPACFLT:	EPA Regions IX and X

1-3.1.1 DoD Regional Environmental Coordination. The Department of Navy has been designated as the DoD Executive Agent (EA) for the regional environmental coordination in EPA regions I, III, and IX.

1-3.2 Navy On-Scene Coordinator (NOSC). The NOSC is the Navy official predesignated to coordinate Navy oil and hazardous substances (OHS) pollution contingency planning and direct Navy OHS pollution response efforts in a preassigned area. Shoreside NOSCs are normally RECs predesignated by the AECs (see Chapter 10). Fleet NOSCs are normally the numbered fleet commanders who direct fleet operations within assigned ocean areas. The NOSC is the Federal On-Scene Coordinator (OSC) for Navy hazardous substances (HS) releases. The NOSC shall act as the Qualified Individual (QI) and incident commander for spills outside areas assigned to Facility Incident Commanders (FICs), and as incident commander for spills beyond the capability of a FIC.

1-3.3 Regional Environmental Coordinators (RECs). RECs serve as the senior Navy officer in a local region to coordinate environmental matters and public affairs. RECs are designated by AECs, and may be designated as NOSCs for spill response as discussed in Chapters 10 and 19.

1-3.4 Naval Environmental Protection Support Service (NEPSS). The NEPSS includes offices in various commands designated to provide environmental technical, legal, data management, and information exchange support to Navy and Marine Corps organizations. The NEPSS consists of the following:

a. COMNAVFACENGCOM is the NEPSS manager.

b. COMNAVFACENGCOM, its subordinate EFD/EFAs and the Naval Facilities Engineering Service Center (NFESC) provide expertise in environmental engineering and legal support, coordinate NEPSS actions, provide NEPSS Navy-wide data collection, and manage NEPSS specialty offices.

c. Specialty offices include:

(1) Ordnance Environmental Support Office (OESO) at the Naval Surface Warfare Center, Indian Head, MD, Division provides Navy-wide support relative to specialty chemical, ordnance, munitions, and ordnance activity environmental protection.

(2) Aircraft Environmental Support Office (AESO) at the Naval Aviation Depot, North Island, CA provides Navy-wide support relative to aircraft and aircraft facility environmental protection.

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(3) Ships Environmental Support Office (SESO) at the Naval Surface Warfare Center, Carderock Division, Annapolis, MD, Detachment provides Navy-wide support relative to ships environmental protection.

(4) Marine Environmental Support Office (MESO) at the Naval Command, Control and Ocean Surveillance Center Research, Development, Test and Evaluation (RDT&E) Division, San Diego, CA, provides Navy-wide support relative to aquatic environmental protection.

1-3.5 Disputes. Unresolved differences in opinion between activities and/or the REC relative to environmental policy issues, including new permit conditions, negotiating positions, payment of new fees, novel provisions in compliance agreements, etc. shall be raised to cognizant major claimants for resolution. If necessary, such issues shall be raised to CNO (N45) via the cognizant major claimant. Legal questions, including interpretations of laws, regulations, permits, compliance agreements and similar legal documents shall be referred to counsel for the REC for determination consistent with Article 0327 of Navy regulations.

1-3.6 Environmental Quality and Natural Resources Conservation Awards. The Navy recognizes outstanding environmental protection or natural resources conservation achievements by Navy individuals and organizations. Secretary of the Navy annually presents awards to installations, ships, and individuals for outstanding leadership and programs, innovation in problem solving, and exemplary approaches to incorporating environmental protection and natural resource concerns into training and day-to-day operations. The Secretary of the Navy awards are the basis for submittal for annual DoD awards. Details of awards and nomination requirements are located in Appendix D.

1-4 Funding

1-4.1 Office of Management and Budget (OMB) Circular A-106 Report. OMB Circular A-106 requires all Federal agencies to report environmental compliance requirements semi-annually in a standard format, to the EPA. EPA comments to agencies on environmental program priorities and provides an overall assessment of the adequacy of agency funding for environmental compliance to OMB. If necessary, OMB may request changes in an agency's budget for environmental compliance.

1-4.1.1 A-106 Reporting Requirements. All Navy environmental costs, no matter how funded, shall be entered into the A-106 system. The following requirements are applicable to costs associated with both ship and shore compliance and pollution prevention. Major claimants shall ensure all environmental costs are identified in the A-106 system, and shall implement a reporting system that best meets their needs while satisfying reporting requirements.

1-4.1.1.1 All major claimants shall establish an environmental database to support planning, programming, budgeting and reporting of the environmental program requirements of this instruction. Technical assistance is available from NAVFACENGCOM, its EFDs or EFAs.

1-4.1.1.2 Major claimants shall review environmental program elements in-house or with assistance from the NAVFACENGCOM, EFD or EFA. Program elements must be reviewed for technical adequacy, regulatory requirements, and adequacy of the cost estimate.

1-4.1.1.3 Major claimants shall forward approved environmental program elements from their consolidated claimant database to NFESC. Claimants may use NAVFACENGCOM, EFDs, EFAs or other support on a reimbursable basis to manage their environmental program database.

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1-4.1.1.4 NFESC shall consolidate environmental program submissions from all claimants and forward consolidated A-106 submittal to CNO (N45) for forwarding to EPA.

1-4.1.1.5 Environmental costs associated with ships and aircraft shall also be entered into the A-106 system. Accordingly, major claimants shall ensure that all environmental issues relative to ships and aircraft are submitted for inclusion in the A-106.

1.4.2 Federal Anti-Deficiency Act. This Act provides that no Federal official or employee may obligate the government for the expenditure of funds unless funds have been authorized and appropriated by Congress for that purpose.

1-4.3 Fees and Taxes. As a general rule, Federal facilities are subject to reasonable service charges or fees related to the administration of environmental enforcement programs that are imposed by Federal, State, and local agencies. Service charges related to the discharge of effluent into bodies of water, the discharge of air emissions into the atmosphere, underground storage tanks (USTs), and the storage, treatment, transportation, and disposal of solid waste are among the types of charges that may be billed to an installation. However, Congress has generally not provided for the payment of taxes by Federal installations and activities. It is therefore important to distinguish between those charges that are fees and those which, although not called taxes, have the character of taxes. This distinction must be made before payments are made. Disbursing authorities shall consult with command or REC counsel when a fee or service charge is first presented. Final determinations regarding the legality of new fees shall be formulated in consultation with DOJ at the headquarters level in appropriate cases.

1-4.3.1 In general, charges presented to a command as fees or for services shall be examined to determine whether:

a. The charge in question is imposed on all regulated entities without discriminating against Federal agencies; or

b. The charge fairly approximates the cost to the State or local authority of making the services available: or

c. The charge does not generate revenues over and above the cost of the relevant programs it supports.

Negative answers to any of these inquiries suggest that the charge is a tax rather than a fee or service charge, thus obliging the U.S. to determine whether to contest it. Any questions relative to these charges should be referred to activity level command counsel or REC counsel.

Installations and activities questioning a charge shall make clear to the authority demanding payment that delay for review is not a reflection of Navy resistance to regulatory action, but is necessary because of legal issues that must be resolved before payment may be lawfully made.

If a regulatory agency refuses to issue an environmental permit to an activity because the activity has not paid an assessment pending legal review, the activity shall immediately notify CNO (N45) via the chain of command, and their REC.

1-4.3.2 Citations and Fines. Any citation by a regulatory agency for an alleged violation of any substantive or administrative requirement or any attempt to levy a fine against a Navy facility shall be reported immediately and processed per the procedures of Appendix B.

1-4.4 Economic Analysis. When practical and appropriate, economic analyses shall be conducted prior to making decisions among options for complying with environmental requirements. For example, it may be more efficient to contract out or transfer operations rather than fund pollution control projects. In other cases, it may be more

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economical to replace equipment as opposed to retro-fitting to meet requirements. Long term pollution prevention options take precedence over short term controls wherever practical.

1-4.5 EPA Compliance Requirements Categories. Office of Management and Budget (OMB) and EPA require all Federal agencies to classify shoreside compliance projects (other than environmental restoration) into three categories:

a. Class I projects are those in which facilities are currently out of compliance with established regulatory deadlines.

b. Class II projects are those in which facilities will be out of compliance at a specific, impending published deadline if action is not taken. If not accomplished by the deadline, projects become Class I.

c. Class III projects are those needed to meet DoD, Assistant Secretary of the Navy (Installations & Environment) (ASN(I&E)), CNO and/or claimant goals related to environmental protection, pollution prevention, cost effectiveness, environmental quality, or enhancement initiatives. These requirements are not mandated by law, but demonstrate Federal leadership and goodwill.

1-4.6 Budgeting for Environmental Compliance. Shore activities and afloat commands shall report Annual Environmental budget requirements on Navy Comptroller (NAVCOMPT) ENV32A/B/C/D/E per NAVCOMPT guidance.

1-4.6.1 Funding Base Operations. The cost of environmental, natural resources and cultural resources compliance shall be part of each activity's operating budget. Compliance requirements shall be programmed, budgeted, and executed in the same manner as other traditional base support costs. Activities are encouraged to charge those commands which use facility services for the full cost of the service as it relates to assuring legally mandated environmental compliance for day-to-day work.

1-4.7 Weapon Systems and Platforms. Alterations to existing Navy ships, aircraft or weapon systems and platforms performed to meet environmental compliance requirements shall be included in the Fleet Modernization Program (FMP) or Engineering Change Proposal (ECP) program, and funds programmed by the applicable Office of the Chief of Navy Operations (OPNAV) resource sponsors. Special studies, equipment, and RDT&E for new environmental compliance requirements shall be budgeted by the cognizant hardware systems command as appropriate, and reported through the A-106 process.

1-4.8 Limit on Use of Environmental Funds. Funds allocated for environmental and natural resources protection shall be used only for those purposes consistent with applicable NAVCOMPT regulations.

1-5 Responsibilities

1-5.1 DCNO (Logistics) or designee shall:

a. Monitor proposed Federal environmental legislation, Federal regulations and proposed rules, and coordinate Navy impact analyses, and ensure articulation of Navy positions and concerns in conjunction with the Navy Office of Legislative Affairs (OLA) and ASN (I&E).

b. Establish and regularly update policy, direct, and monitor progress of the Navy environmental and natural resources programs.

c. Coordinate environmental policy and program matters with ASN (I&E), the Deputy Under Secretary of Defense (Environmental Security) (DUSD (ES)), other services, the EPA, and other Federal agencies.

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d. Coordinate review and issuance of NEPA documents and documents prepared under EO 12114.

e. Serve as the OPNAV assessment sponsor for the environmental and natural resources programs, and as the OPNAV resource sponsor for shore activity environmental and natural resources protection requirements.

f. Coordinate with resource sponsors, Deputy Chief of Naval Operations (N8), NAVCOMPT, DoD, and OMB in the reconciliation of environmental compliance requirements vs. budgeted resources.

1-5.2 The Director, Naval Nuclear Propulsion (N00N) shall fulfill all responsibilities prescribed in EO 12344 and implement Navy instructions for all matters pertaining to naval nuclear propulsion, including all radiological aspects of naval nuclear propulsion, oversight of radiological environmental compliance and monitoring, and involvement, where needed, in other environmental compliance and monitoring matters that affect naval nuclear propulsion.

1-5.3 Resource sponsors shall:

a. Ensure environmental compliance by establishing requirements and providing resources, consistent with their missions and functions as assigned in reference (e).

b. Ensure sufficient resources are made available to major claimants for environmental compliance requirements at Navy activities.

c. Ensure sufficient resources are made available to major claimants for RDT&E, procurement of equipment, installation, and alterations of weapons systems and platforms to ensure compliance with environmental requirements.

1-5.4 Chief of Information (CHINFO) shall:

a. Provide guidelines for the release of information involving environmental and natural resources matters.

b. Provide guidance on the conduct of public affairs matters and public hearings required by environmental laws or regulations.

c. Establish and implement a program to gather and publicize Navy environmental program accomplishments.

1-5.5 Area Environmental Coordinators shall:

a. Appoint a flag level Navy officer to serve as the Navy REC in each of the 10 EPA regions. Should the AEC chose to appoint more than one REC within an EPA region, the AEC must designate one REC to serve as the Navy's lead REC in the region.

b. In regions where the Navy is designated as the DoD EA for regional environmental coordination, assign Navy EA responsibilities to the lead REC.

c. Provide a semi-annual report to CNO (N45) regarding implementation of DoD policy in regions for which the Navy has been designated EA for Environmental Security.

d. Appoint NOSCs as required.

1-5.6 Regional Environmental Coordinators shall:

a. Coordinate public affairs and community relations in the region with respect to environmental matters, and serve as the Navy point of contact for public and media inquiries when appropriate for matters of regional scope.

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b. Ensure consistent positions, agreements, permit conditions, and responses to regulatory agencies within the region, coordinating closely with affected shore activities, major claimants and COMNAVFACENGCOM EFD/EFAs. Coordinate with other military service RECs on issues that affect regional DoD activities as a whole. Where activities are taking inconsistent positions on similar environmental issues, the REC shall assist in reconciling the positions and developing a single Navy position within the region. If differences cannot be resolved among affected shore activities, major claimants, or other military service RECs, the REC shall elevate the issue to CNO (N45) via the chain of command for resolution as discussed in paragraph 1-3.5.

c. Serve as the primary Navy interface with regional Federal and State regulatory agencies. RECs may designate activities within their region to serve as the primary interface with individual State and/or local regulatory agencies.

d. Coordinate exchange of environmental information among Navy shore activities in the region, including the distribution of State, local, and regional laws, rules, and regulations. Hold meetings and/or conferences, as necessary, for regional commands on environmental compliance issues.

e. Monitor environmental compliance at activities within their region.

f. Develop regional plans of action for specific environmental initiatives in coordination with commanding officers of Navy shore activities in the region and major claimants. Coordinate regional training initiatives among Navy activities and with other Federal, State, and local agencies to promote efficient use of training resources.

g. Ensure that the NOSC spill contingency plans are reviewed, responsibilities are clearly outlined, and procedures are consistent with policies of the REC in cases where the REC is not the NOSC for spill response. See Chapter 10 for more detail on contingency planning.

h. Provide assistance to facilities in dealing with regulatory agencies as requested.

i. Act as the liaison between visiting foreign warships, environmental regulatory personnel, and port services on environmental requirements during ship visits. See paragraph 19-14.9.e.

j. Ensure that agreed upon Navy positions and concerns are articulated to State lawmakers and Federal, State, and local regulatory officials within their region by appropriate Navy officials.

k. Review and evaluate proposed State environmental legislation and regulations for potential impact on Navy operations, and keep appropriate major claimants and shore activities informed on the status of State legislative and regulatory proposals.

l. Not enter into any compliance commitment or agreement for which it is not the permit holder; nor shall the REC sign any memorandum of understanding or similar document, if unresolved differences remain with any affected shore activities or commands.

m. If designated by the cognizant AEC, execute Navy EA responsibilities for DoD environmental coordination. Coordinate all DoD regional environmental issues via the chain of command.

1-5.7 COMNAVFACENGCOM shall:

a. Manage the Navy A-106 report, issue related operating instructions, and ensure accuracy.

b. Develop semiannual reports of updates and new environmental program elements for the semiannual A-106 report; provide the semiannual A-106 report to CNO (N45).

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c. Provide environmental program management information as requested by naval activities and commands.

d. Plan, program, budget and provide overall coordination and management for Defense Environmental Restoration Account (DERA) and the NEPSS program.

e. Provide environmental engineering, environmental compliance, and contracting assistance to naval activities and commands upon request.

f. Maintain the Defense Environmental Management Information System (DEMIS), analyze data, and prepare required reports and briefings as requested.

g. As requested by the RECs, prepare analyses of relevant operational, legal, and technical issues raised by proposed State environmental legislation.

h. Designate, in each EFD and specialty office, a single point of contact for major claimants and RECs.

i. Perform designated tasks under the DON Strategic Environmental Quality RDT&E program.

1-5.8 Commander, Naval Sea Systems Command (COMNAVSEASYSCOM) shall:

a. Endorse annual actions and levels of effort of the SESO and OESO to ensure these offices are focused on key Navy environmental problems within their specialty area.

b. Manage the shipboard, ordnance and munitions environmental protection RDT&E program.

c. Maintain OHS pollution response equipment and expertise for Navy offshore and salvage related OHS spills or releases through the Supervisor of Salvage (SUPSALV).

1-5.9 Commander, Naval Air Systems Command (COMNAVAIRSYSCOM) shall:

a. Endorse annual actions and levels of effort of the AESO to ensure this office is focused on key Navy environmental problems within its specialty area.

b. Manage the naval aviation advanced development environmental protection RDT&E program.

1-5.10 Commander, Naval Space and Warfare Systems Command (COMNAVSPAWARSYSCOM) shall endorse annual actions and levels of effort of MESO to ensure this office is focused on key Navy environmental problems within its specialty area.

1-5.11 Chief, Bureau of Medicine and Surgery (CHBUMED) shall:

a. Determine, validate, and establish health related criteria and standards that are not available through Federal, State, or local laws or regulations.

b. Provide assistance to activities, offices, and commands concerning the health aspects of pollution sources or pollution control equipment, including development of medical monitoring programs.

c. Provide industrial hygiene and medical expertise to activities during spill events and other environmental emergencies via Navy hospitals and clinics, Navy Environmental Preventive Medicine Units, Navy Disease Vector Ecology Control Centers, and the Navy Environmental Health Center.

d. Coordinate with the Agency for Toxic Substances and Disease Registry (ATSDR) for the

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timely completion of public health assessments for National Priorities List (NPL) sites, toxicological profiles on any specific contaminants, health education, health consultations, and other activities provided in the DoD/ATSDR Annual Plan of Work.

1-5.12 Chief of Naval Education and Training (CNET) shall:

a. Ensure effective training programs on environmental compliance and natural resources management exist throughout the Navy.

b. Update as required, budget for and implement the Navy Environmental and Natural Resources Program Training Plan.

1-5.13 Commander, Naval Legal Service Command shall:

a. In consultation with the General Counsel, review recommended training and reference resource standards for counsel providing legal advice on environmental law issues.

b. Develop, budget for and conduct training courses sufficient to meet recommended training levels for Navy military and civilian attorneys providing legal advice on environmental law issues.

1-5.14 JAG and GC attorneys shall provide advice and counsel on:

a. Interpretation of environmental laws and regulations and their effect on the operation of the Navy.

b. Responses to NOVs or similar assertions of non-compliance and to demands for payment of Navy funds from any environmental agency.

c. Provisions in contracts or agreements with respect to environmental matters.

JAG and GC attorneys within the chain of command are the primary legal resource. Counsel assigned to RECs, Naval Legal Service Offices, Public Works Centers and EFDs are available to provide additional legal support upon request. Counsel with environmental law expertise are also on the staffs of the major claimants. Environmental litigation support is provided by the litigation office of the General Counsel. Finally, environmental legal advice is available from the Office of the Assistant General Counsel (Installations and Environment) (OAGC(I&E)).

1-5.15 Major claimants shall:

a. Ensure that subordinate commands adhere to the policies in this manual and comply with applicable environmental requirements.

b. Plan, program, budget and allocate sufficient resources to fund environmental compliance requirements at their activities.

c. Issue guidance to activities regarding planning, programming, and budgeting of environmental requirements and execution of environmental programs and projects.

d. Ensure activities, including GOCOs, submit all environmental compliance requirements to major claimants as soon as such requirements are foreseen.

e. Provide necessary information for completion of the required OMB A-106 reports to COMNAVFACENGCOM upon request.

f. Support CNO (N4) as program assessment sponsor by providing detailed information in support of program baseline assessments as requested.

g. Provide input on RDT&E requirements via the DON Strategic Environmental Quality RDT&E program, and direct the implementation

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of innovative solutions to environmental compliance, cost, and liability issues.

h. Review draft legislation and regulations and provide CNO (N45) with timely comments and assessments of the impact of draft legislation or regulations on their activities.

1-5.16 Commanding officers (COs) of shore activities shall:

a. Comply with applicable substantive and procedural Federal, State, and local environmental laws and regulations and continuously strive for improvements in all areas of pollution prevention.

b. Cooperate with Federal, State, and local environmental regulatory officials.

c. Comply with the policies in this manual.

d. Coordinate environmental and natural resources matters (especially enforcement actions, agreements and permit conditions) with RECs, NAVFACENGCOM EFDs and EFAs, and major claimants.

e. Submit nominations for the Secretary of the Navy Environmental Quality and Natural Resources Awards, as appropriate.

f. Integrate environmental compliance requirements into all levels of activity management through the application of program management procedures (including oversight, inspection, and identification) and by requesting sufficient resources to support environmental and natural resources programs.

g. If a CO of a host activity, apply for all Federal, State, and local permits, where appropriate, and coordinate permit conditions with all affected tenant commands. Include responsibilities for environmental and natural resources program, permits, fees and fines in all host/tenant agreements. In those States or regions where environmental regulatory agencies allow tenant commands to submit and hold their own environmental permits, COs of host commands may delegate authority to sign and hold permits to COs of tenant commands.

h. Along with COs and officers in charge (OICs) of tenant activities, comply with the policies of this manual and with written environmental and natural resources requirements established by the host commanding officer. Responsibilities under Federal, State and local laws are allocated by those laws and may not be affected by intra-Navy agreements and command relationships. Accordingly, COs and OICs of tenant activities shall coordinate all contacts with regulatory officials through the host activity.

i. Plan, program, budget, and allocate funds for environmental protection costs.

1-5.17 Commander, Military Sealift Command (MSC) shall:

a. Ensure that MSC-owned vessels and MSC-chartered vessels, as public vessels shall comply with the policies and procedures of this manual.

b. Include applicable environmental requirements of this manual in all charters, contracts, and leases for vessels.

1-5.18 Commanding officers and masters of naval vessels shall:

a. Adhere to the policies of this manual, including Chapters 3 and 19 on pollution prevention and afloat environmental compliance.

b. Comply with written environmental directives of host shore facilities and cooperate with host's designated environmental management staff to ensure compliance with applicable Federal, State, and local requirements.

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c. Ensure that shipboard environmental protection systems are properly maintained and operated to conform with applicable Federal, State, and local regulations.

d. Ensure that ship's personnel whose actions could adversely affect the environment are properly trained, attend appropriate schools, and are fully aware of appropriate documentation.

e. Report to the chain of command any conditions or systems/equipment malfunctions or personnel errors that could result or have resulted in unlawful emissions or discharge.

f. Carry out the detailed responsibilities listed in paragraph 19-14.11 of this manual.

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CHAPTER 2

PROCEDURES FOR IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

2-1 Scope

The National Environmental Policy Act (NEPA) is a basic national charter for protection of the environment. It establishes policy, sets goals, and provides a means for carrying out environmental policy. This chapter contains policy and guidance to ensure that Navy actions with the potential to have significant environmental impacts are accomplished per the letter and spirit of NEPA. The requirements of this chapter apply to any action affecting the environment inside the U.S., its territories and possessions. Executive Order (EO) 12898 of February 11, 1994, deals with Federal actions to address environmental justice in minority populations and low-income populations. Proponents of proposed actions having the potential for significant effects on the environment outside the geographical borders of the U.S. and its territories and possessions must also take environmental considerations into account per EO 12114 of January 4, 1979, and reference (f). Procedures to be followed when a proposed Navy action affects the environment outside the jurisdiction of the U.S. are presented in Appendix E.

2-1.1 References. Relevant references are:

a. 32 CFR 775, DON Procedures for Implementing the National Environmental Policy Act;

b. 40 CFR 6, EPA Regulations on Implementation of National Environmental Policy Act Procedures;

c. 40 CFR 1500-1508, Council on Environmental Quality Regulations on Implementing National Environmental Policy Act Procedures;

d. DoDINST 5000.2 of 23 February 1991, Defense Acquisition Management Policies and Procedures; (NOTAL)

e. DoD Directive 6050.1 of 30 July 1979, Environmental Effects in the United States of DoD Actions; (NOTAL)

f. DoD Directive 6050.7 of 31 March 1979, Environmental Effects Abroad of Major Department of Defense Actions; (NOTAL)

g. SECNAVINST 5000.2A, Implementation of Defense Acquisition Management Policies, Procedures, Documentation and Reports (NOTAL).

2-2 Legislation

2-2.1 NEPA mandates that Federal agencies "utilize a systematic, interdisciplinary approach that will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making, which may have an impact on man's environment." NEPA impacts on a wide variety of existing environmental legislation, including the: Clean Air Act (CAA), Clean Water Act (CWA), Coastal Zone Management Act (CZMA), National Historic Preservation Act (NHPA), Marine Protection, Research and Sanctuaries Act (MPRSA), Pollution Prevention Act (PPA), and the Endangered Species Act (ESA). Please refer to Appendix A for further discussion on specific laws.

NEPA further requires a detailed statement on the environmental impact of major Federal actions that significantly affect the environment be included in every recommendation or report on proposals for legislation. Two basic tenets of NEPA and

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the Council on Environmental Quality (CEQ) regulations are that:

a. Procedures must be in place to ensure that environmental information is available to decision makers and citizens before decisions are made and major Federal actions are taken; and

b. The NEPA process should identify and assess reasonable alternatives to proposed actions to avoid or minimize adverse environmental effects.

2-2.2 NEPA created the CEQ, which has provided regulations to implement the procedural provisions of NEPA.

2-2.2.1 CEQ regulations apply a three-tiered approach to ensure that pertinent environmental information for major Federal actions is available to decision makers and the public:

a. Categorical exclusions

b. Environmental assessments (EAs)

c. Environmental impact statements (EISs).

Compliance criteria for each level will be discussed in detail in subsequent parts of this chapter.

2-2.3 EO 12898 mandates that each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations.

2-3 Terms and Definitions

2-3.1 Action Proponent. Major claimant, subordinate command, or designated program manager, responsible for proposing and executing an action.

2-3.2 Categorical Exclusion. A category of actions that do not have, under normal circumstances, individually or cumulatively, a significant effect on the human environment or that have been previously found to have no such effect as a result of procedures adopted by the Navy for implementing the CEQ regulations and for which, therefore, neither an EA nor an EIS is required.

2-3.3 CNO Environmental Review Panel. A selected group of technical experts convened by Shore Activity Division, Assistant for Planning and Real Estate (N44E) to review submitted EAs/EISs and recommend subsequent disposition/processing. Review panel composition will be on a subject-by-subject basis with specific subject-matter experts being named to the panel as appropriate and only for the length of time necessary to resolve the current issue.

2-3.4 Cooperating Agency. Any Federal agency other than a lead agency, which has jurisdiction by law or special expertise with respect to any environmental impact, involved in a proposal (or a reasonable alternative) for legislation or other major Federal action significantly affecting the quality of the human environment. A State or local agency of similar qualifications or, when the effects are on a reservation, an Indian tribe, may by agreement with the lead agency become a cooperating agency.

2-3.5 Draft Environmental Impact Statement (DEIS). Statements prepared for actions that may have a significant impact on the quality of the human environment or that are potentially controversial in environmental effects. DEISs are filed with the Environmental Protection Agency (EPA) and distributed to cognizant Federal, State, local, and private agencies, organizations, and individuals for review and comment before preparation of a final EIS.

2-3.6 Environmental Assessment (EA). A concise public document that:

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a. Briefly provides sufficient evidence and analysis for determining whether to prepare an EIS or a Finding Of No Significant Impact (FONSI).

b. Aids the Navy's compliance with NEPA when no EIS is necessary.

c. Facilitates preparation of an EIS when one is necessary.

2-3.7 Final Environmental Impact Statement (FEIS). A completed statement that incorporates all pertinent comments and information made as a result of review of the DEIS. The FEIS is filed with EPA and distributed to recipients of the DEIS.

2-3.8 Finding of No Significant Impact (FONSI). A document, in which the Navy briefly presents the reasons why an action not otherwise categorically excluded will not have a significant effect on the human environment, and for which an EIS will not therefore be prepared. The FONSI shall include the EA or its summary and shall note any other environmental documents related to it. If the EA is included, the finding need not repeat any of the discussion but may incorporate it by reference. A FONSI may be one result of review of an EA.

2-3.9 Human Environment. The natural and physical environment and the relationship of people with that environment.

2-3.10 Impacts. Impacts, as used in this chapter, are synonymous with effects, and include direct, indirect, and cumulative impacts. Direct impacts are caused by an action and occur at the same time and place as the action. Indirect impacts are also caused by an action; although occurring later in time or farther removed in distance from the action, they are still reasonably foreseeable. Indirect impacts include:

a. Growth inducing effects.

b. Effects related to induced changes in the pattern of land use, population density, or growth rate.

c. Related effects on the human environment.

Cumulative impacts result from the incremental impact of an action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

2-3.11 Lead Agency. The agency or agencies preparing or having taken primary responsibility for preparing an EIS.

2-3.12 Legislative Environmental Impact Statement (LEIS). A LEIS is a detailed statement required by law to be included in a recommendation or report on a legislative proposal to Congress. A LEIS shall be considered part of the formal transmittal of a legislative proposal; however, it may be transmitted up to 30 days later in order to allow time for completion of an accurate statement that can serve as the basis for public and congressional debate. A LEIS is not prepared for the annual request to Congress for military construction (MILCON) authorization or other funding appropriations. The subject of the funding authorization is reviewed for appropriate NEPA compliance.

2-3.13 Major Federal Action. Any proposed Navy action that has the potential for physical impact on the human environment. Actions include, but are not limited to:

a. New activities, including projects entirely or partly funded, assisted, conducted, regulated, or approved by the Navy.

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b. Substantive changes in continuing actions, such as substantial changes in operational tempo, areas of use, or in methodology/equipment.

c. Approval of specific projects, such as construction or management activities located in a defined geographic area, e.g., MILCON projects, public/private venture projects, unspecified minor construction projects, natural resources management projects, special projects, land acquisition, and locally funded projects.

d. Adoption of programs, such as a group of concerted actions to implement a specific policy or plan.

2-3.14 Mitigation. Actions, which reduce the severity or intensity of impacts of other actions, to include:

a. Avoiding the impact altogether by not taking a certain action or parts of an action or by moving the project location.

b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, for example by adjusting site layout.

c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

d. Reducing or eliminating the impact over time by monitoring, maintaining, and/or replacing equipment or structures so that future environmental degradation due to equipment or structural failure does not occur during the life of the action.

e. Compensating for the impact by replacing or providing substitute resources or environments.

Action proponents are encouraged to consider avoidance as the preferred mitigation measure.

2-3.15 Record of Decision (ROD). A concise summary for publication in the Federal Register of the decision made by the Navy from among the alternatives presented in a FEIS. The document, prepared by the Deputy Chief of Naval Operations (DCNO) (Logistics) and approved by the Secretary of the Navy (SECNAV) will state the decision, identify alternatives considered (including that which was environmentally preferable), and discuss other considerations (non-environmental) that influenced the decision identified. State whether all practicable means to avoid or minimize impacts from the alternative chosen will be implemented and if not, why they were not. Additionally, any monitoring associated with mitigation shall be addressed.

2-3.16 Scoping. There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This process shall be termed scoping.

2-3.17 Significance. Significance of an impact is determined by context and intensity. Context is identified by the area or processes affected. Intensity refers to the severity of impact as derived from evaluating magnitude of effects on public health or safety, unique characteristics of the geographic area, controversy of environmental effects, risk analysis, precedents, relationship to other actions, cumulative impacts, and the potential for violating laws imposed to protect the environment.

2-3.18 Supplemental Environmental Impact Statement. A document describing environmental impacts of a project or proposal, which is prepared when substantial changes are made in the proposed action that are relevant to environmental concerns, or when significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts becomes available. A supplemental EIS may be prepared at any time after preparation and filing

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of a DEIS or FEIS, and is filed with the EPA and distributed to recipients of the DEIS and FEIS.

2-4 Requirements

2-4.1 Categorical Exclusions. CEQ regulations provide for establishment of categorical exclusions for those actions which, after consideration by the Departments (Navy), have been found to not have a significant effect on the human environment individually or cumulatively, under normal circumstances, and therefore neither an EA nor an EIS is required. Categorical exclusions are applicable to those kinds of military actions that do not significantly affect the quality of the human environment, do not result in any significant change from existing conditions at the site of the proposed action, and whose effect is primarily economic or social. Even though a proposal generally fits the definition of a categorical exclusion, a categorical exclusion will not be used if the proposed action:

a. Would affect public health or safety

b. Involves an action that is determined, in coordination with the appropriate resource agency, to have the potential for significant environmental effects on wetlands, endangered or threatened species, historical or archeological resources, or hazardous waste sites; examples include situations where:

(1) the action would not qualify under an Army Corps of Engineers (COE) nationwide/regional permit, or if it does meet COE requirements, cannot meet Navy's "no net loss" wetland policy.

(2) a "no adverse effect" opinion would not be issued by National Marine Fisheries Service (NMFS) or United States Fish and Wildlife Service (USFWS).

(3) the State Historic Preservation Office (SHPO) would not concur with a "no effect" determination.

(4) The Defense Environmental Restoration Program Technical Review Committee (DERP TRC) would non-concur with the project.

c. Involves effects on the human environment that are highly uncertain, involve unique or unknown risks, or that are scientifically controversial.

d. Establishes precedents or makes decisions in principle for future actions with significant effects; and/or

e. Threatens a violation of Federal, State, or local law or requirements imposed for protection of the environment.

The decision to declare a proposed action to be categorically excluded is the responsibility of the action proponent (often at the activity level). The decision not to prepare an EA or EIS on the basis of one or more categorical exclusions must be documented to describe the exclusions found applicable, the facts supporting their use, and specific considerations of whether the exceptions to the use of categorical exclusion, set out above, were applicable. This Record of Categorical Exclusion need not be more than a page or two, but it should be signed by the commanding officer or his/her designee or, in the case of weapons acquisition programs, the program manager. If, during action coordination with the appropriate regulatory/resource agencies, it is determined that the action will have no adverse effect on resources listed in paragraph 2-4.1b and no other impacts are anticipated, a categorical exclusion may be used and a Record of Categorical Exclusion will include copies of the agency correspondence. The signed Record of Categorical Exclusion must be retained within the project files and be available for review during environmental compliance evaluations (ECEs).

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2-4.2 List of Categorical Exclusions. The following are actions (listed in the same order and manner as reference (a)) which, under normal conditions, are categorically excluded from further documentation requirements under NEPA:

(1) Routine personnel, fiscal, and administrative activities involving military and civilian personnel, e.g., recruiting, processing, paying, and records keeping.

(2) Reductions in force wherein impacts are limited to socioeconomic factors.

(3) Routine movement of mobile assets, such as ships and aircraft, in home port reassignments (when no new support facilities are required) to perform as operational groups, and/or for repair and overhaul.

(4) Relocation of personnel into existing federally-owned or commercially-leased space that does not involve a substantial change in the supporting infrastructure (e.g., an increase in vehicular traffic beyond the capacity of the supporting road network to accommodate such an increase is an example of substantial change).

(5) Studies, data, and information-gathering that involve no physical change to the environment, e.g., topographic surveys, bird counts, wetland mapping, forest inventories, and timber cruising.

(6) Routine repair and maintenance of facilities and equipment to maintain existing operations and activities, including maintenance of improved and semi-improved grounds such as landscaping, lawn care, and minor erosion control measures.

(7) Alteration and additions of existing structures to conform or provide conforming use specifically required by new or existing applicable legislation or regulations, e.g., hush houses for aircraft engines and scrubbers for air emissions.

(8) Routine actions normally conducted to operate, protect, and maintain military-owned and/or controlled properties, e.g., maintaining law and order, physical plant protection by military police and security personnel; and localized pest management activities on improved and semi-improved lands conducted under applicable Federal and State directives.

(9) New construction that is consistent with existing land use and, when completed, the use or operation of which complies with existing regulatory requirements; e.g., a building on a parking lot with associated discharges/runoff within existing handling capacities, a bus stop along a roadway, and a foundation pad for portable buildings within a building complex.

(10) Procurement activities that provide goods and support for routine operations.

(11) Day-to-day manpower resource management and research activities that are under approved plans and inter-agency agreements and that are designed to improve and/or upgrade military ability to manage those resources.

(12) Decisions to close facilities, decommission equipment, and/or temporarily discontinue use of facilities or equipment (where such equipment is not used to prevent/control environmental impacts). (Note: Does not apply to permanent closure of public roads nor to base closures).

(13) Contracts for activities conducted at established laboratories and plants, to include contractor-operated laboratories and plants, within facilities where all airborne emissions, waterborne effluent, external radiation levels, outdoor noise, and solid and bulk waste disposal practices comply with existing applicable Federal, State, and local laws and regulations.

(14) Routine movement, handling and distribution of materials, including hazardous materials/wastes that when moved, handled, or distributed are under applicable regulations.

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(15) Demolition, disposal, or improvements involving buildings or structures neither on nor eligible for listing on the National Register of Historic Places and when under applicable regulations (e.g. removal of asbestos, polychlorinated biphenyls (PCBs), and other hazardous materials).

(16) Acquisition, installation, and operation of utility and communication systems, data processing cable; and similar electronic equipment, which use existing rights of way, easements, distribution systems, and/or facilities.

(17) Renewals and/or initial real estate ingrants and outgrants involving existing facilities and land wherein use does not change significantly. That includes, but is not limited to, existing or Federally-owned or privately-owned housing, office, storage, warehouse, laboratory, and other special purpose space.

(18) Grants of license, easement, or similar arrangements for the use of existing rights-of-way or incidental easements complementing the use of existing rights-of-way for use by vehicles (not to include significant increase in vehicle loading); electrical, telephone, and other transmission and communication lines; water, wastewater, stormwater, and irrigation pipelines, pumping stations, and facilities; and for similar utility and transportation uses.

(19) Transfer of real property from the military to another military department or to another Federal agency, and the granting of leases (including leases granted under the agricultural outleasing program where soil conservation plans are incorporated), permits and easements where there is no substantial change in land use or where subsequent land use would otherwise be categorically excluded.

(20) Disposal of excess easement interests to the underlying fee owner.

(21) Renewals and minor amendments of existing real estate grants for use of government-owned real property where no significant change in land use is anticipated.

(22) Pre-lease exploration activities for oil, gas or geothermal reserves, e.g., geophysical surveys.

(23) Return of public domain lands to the Department of the Interior.

(24) Land withdrawal continuances or extensions, which merely establish time periods, and where there is no significant change in land use.

(25) Temporary closure of public access to military property to protect human or animal life.

(26) Engineering effort undertaken to define the elements of a proposal or alternatives sufficiently so that the environmental effects may be assessed.

(27) Actions, which require the concurrence or approval of another Federal agency, where the action is a categorical exclusion of the other Federal agency.

(28) Maintenance dredging and debris disposal where no new depths are required, applicable permits are secured, and disposal will be at an approved disposal site.

(29) Installation of devices to protect human or animal life, e.g., raptor electrocution prevention devices, fencing to restrict wildlife movement onto airfields, and fencing and grating to prevent accidental entry to hazardous areas.

(30) Natural resources management actions undertaken or permitted under agreement with or subject to regulation by Federal, State, or local organizations having management responsibility and authority over the natural resources in question, including hunting or fishing during hunting or fishing seasons established by State authorities under their State fish and game management laws. With regard to natural resources regulated by

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another Federal agency, the responsible command may cooperate in any environmental analysis that may be required by the other agencies' regulations.

(31) Approval of recreational activities that do not involve significant physical alteration of the environment or increase human disturbance in sensitive natural habitats and that do not occur in or adjacent to areas inhabited by endangered or threatened species.

(32) Routine maintenance of timber stands, including issuance of down-wood firewood permits, hazardous tree removal, and sanitation salvage.

(33) Reintroduction of endemic or native species (other than endangered or threatened species) into their historic habitat when no substantial site preparation is involved.

2-4.3 EAs

2-4.3.1 General. An EA is an analysis of the potential environmental impact of a proposed action. When the military does not know beforehand whether or not the proposed action will significantly affect the human environment or be controversial with respect to environmental effects, an EA is prepared. If on the basis of the EA, it is determined that the proposed action will not significantly impact the environment, a FONSI will be prepared. Otherwise an EIS will be prepared.

2-4.3.2 Action Normally Requiring EAs. EAs are prepared for those actions that do not fall under one or more of the listed categorical exclusions and that have the potential for significant environmental impacts. The following are examples of actions which, under normal conditions, would require preparation of an EA:

a. Training exercises on or over (airspace) non-military property.

b. Major training exercises on military property that are not categorically excluded, for which the impacts are unknown, or the impacts are not already known to be significant.

c. Dredging projects that increase water depth over previously dredged or natural depths.

d. Proposed utilization of tidal and non-tidal wetlands that would require a special permit.

e. Real estate acquisitions or outleases of land involving one of the following:

(1) New ingrants/outgrants only, i.e., not renewals nor continuances wherein land usage remains the same,

(2) Fifty acres or more where existing land use will change and will not be categorically excluded, or

(3) Renewals of agricultural/grazing leases when changes in animal stocking rates, season of use, or conversions to or from cropland are involved.

f. Real estate acquisition of any size or ingrants/ outgrants, which may be considered environmentally controversial, regardless of the appropriation or intended use.

g. Family housing projects when resident population changes substantially.

h. New target ranges or range mission changes that would increase environmental impact.

i. Exercises conducted at the request of State (e.g. ship sinking for artificial reefs) or territorial governments wherein environmental impact might be expected.

j. New low altitude aircraft training routes and/or special use airspace and warning areas wherein overflights impact persons or wildlife (particularly endangered species).

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k. Mission changes, base closures/ relocations/consolidations and deployments that would cause major long term population increases or decreases in affected areas. EAs are not required where impacts are purely socioeconomic and involve no potential for significant environmental impacts.

l. Any activity proposed that may adversely affect threatened or endangered species, or designated or proposed critical habitat of an endangered species. Associated but separate need for a biological assessment and consultation under the Endangered Species Act is discussed in Chapter 22.

m. Any activity proposed that would affect historical or cultural sites either now listed on the National Register of Historical Places or deemed eligible for inclusion on the National Register (see Chapter 23).

n. Permanent closure or limitation of access to any areas that were open previously to public use, such as roads or recreational areas.

o. Construction or any other action resulting in discharges to or potential contamination of an aquifer, watershed, or recharge zone regulated by Safe Drinking Water Act (SDWA).

p. Irreversible conversion of "prime or unique farmland" to other uses.

q. Transportation of hazardous substances, conventional munitions, or other wastes for intentional disposal into the oceans by any naval unit.

r. Award or termination of contracts involving substantial quantities of natural resources, wherein Navy is the contracting agency.

s. Any action for which the environmental effect is scientifically controversial.

2-4.3.3 Content of EAs. EA preparation should follow the same evaluation thought process as for EISs, i.e., the EA should be focused on the issues of concern and be of a length sufficient to address those issues. The EA will briefly discuss the need for the action; discuss alternatives considered; describe the environmental impacts of the proposal and any environmental monitoring requirements; and provide a listing of the agencies and persons consulted. See Chapter 23 for additional information regarding cultural resources.

a. The potential impact on endangered animal or plant species must be addressed, particularly if a "critical habitat" has been designated for such species by the U.S. Fish and Wildlife Service, or the National Marine Fisheries Service. See Chapter 22 for additional responsibilities in regard to protection of endangered species.

b. To satisfy the General Conformity Rule under Section 176(c) of the Clean Air Act, the results of the Conformity Review will be included as an appendix to an EA that proposes an action in a nonattainment or maintenance area. The Conformity Review will consist of one or a combination of the following: (1) a determination that the action is not subject to the rule; (2) a Record of Non-Applicability, or; (3) a Conformity Determination.

2-4.3.4 Public Participation. The importance of public participation in preparing EAs is clearly recognized in CEQ regulations, and commands proposing an action are to develop a plan to ensure appropriate communication with affected and interested parties. In determining the extent to which public participation is practicable, the following are among the factors to be weighed:

a. The magnitude of the environmental considerations associated with the proposed action.

b. The extent of anticipated public interest.

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c. Any relevant questions of national security and classification.

2.4.4 EISs

2.4.4.1 General. An EIS provides full and unbiased discussion of significant environmental impacts and informs decision makers and the public of the reasonable alternatives that would avoid or minimize adverse impact or enhance the quality of the human environment.

2-4.4.2 Guidelines and Standards. Several guidelines that may be used to judge the significance of the effect of an action on the environment include:

a. The geographical extent of the action is often important. For example: construction, land use modification, etc., to support a limited maneuver or training exercise by an individual command may not normally have a significant effect upon the environment. However, training exercises on a broad geographic scale involving diverse natural areas would be more likely to have a significant effect on environmental quality.

b. The long-term impact of the action should be considered. An objective overview should be maintained toward the magnitude of environmental effects of both the immediately contemplated action and future actions, for which the proposed action may serve as a precedent, and which may result in a cumulatively significant impact.

c. The risk potential must be evaluated. For example, even though the environmental impact of an efficiently run fuel depot may not be significant, the effects of an oil spill on the local fishing industry, or the surrounding beaches in the case of a tourist-oriented economy, may well render construction of such a depot very significant.

d. The sites having existing or possible historic, architectural, or archeological interest must be reviewed. See Chapter 23 for additional information regarding cultural resources.

e. The potential impact on endangered animal or plant species must be addressed, particularly if a "critical habitat" has been designated to such species by the US. Fish and Wildlife Service or the National Marine Fisheries Service. See Chapter 22 for additional responsibilities in regard to protection of endangered species.

2-4.4.3 Actions for Which EISs Must Be Prepared. The following are examples of actions that may have a significant impact on the quality of the human environment or are potentially controversial in environmental effects, and therefore require preparation of an EIS:

a. Large dredging projects or dredging projects where dredged material disposal may result in significant impacts.

b. Proposed major construction and filling in tidelands/wetlands.

c. Establishment of major new installations.

d. Major land acquisitions that will result in changed use of the property.

e. New sanitary landfills.

f. Disposal of biological or chemical munitions and pesticides or herbicides other than in the manner in which they are authorized for use or disposal.

When an action is among those listed above, closely analogous to the same, or when an EA concludes impacts to be significant or environmentally controversial, the action proponent will prepare an EIS using procedures outlined in this instruction.

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2-4.4.4 EIS Preparation. To achieve the goal of NEPA to prepare a concise and useful statement, action proponents are to prepare EISs in the following manner:

a. EISs will be analytic rather than encyclopedic.

b. Impacts will be discussed in proportion to their significance. There will only be a brief discussion of other than significant issues. As in a FONSI, there should only be enough discussion to show why more study is not warranted.

c. EISs will be kept concise and no longer than absolutely necessary to comply with NEPA, these regulations, and those issued by the CEQ. Length should vary first with potential environmental issues and then with project size.

d. EISs will describe the criteria for selecting alternatives.

e. The range of alternatives discussed in EISs, including the No Action alternative, will encompass those to be considered by the ultimate decision maker, or as directed by the lead agency, if the DoD is a cooperating agency.

f. Before making a final decision, cognizant commands will not make irreversible commitments of resources that change the physical environment.

g. EISs will serve as a means of assessing the environmental impacts of proposed actions, including disproportionately high adverse human health or environmental effects on minority and low-income populations.

h. To satisfy the General Conformity Rule under Section 176(c) of the Clean Air Act, the results of the Conformity Review will be included as an appendix to Draft EISs proposing an action in a nonattainment or maintenance area. CNO Interim Guidance on Compliance With the Clean Air Act General Conformity Rule describes the requirements and procedures for preparing a Conformity Review.

2-4.4.5 Document Length. The text of the EIS will be normally less than 150 pages. For proposals of unusual scope or complexity EISs should normally be less than 300 pages. Every effort should be taken to restrict the document to only pertinent facts and exclude material not directly applicable to the expected impact. The statement must contain sufficient information and baseline data to support the conclusions reached. Data may be appended to the statement as appendices.

2-4.4.6 Contractor Involvement in EIS Preparation. EISs, like EAs, are frequently prepared by contractors. In order to obtain unbiased analyses, contractors must be selected in a manner avoiding any conflict of interest. Therefore, contractors will execute disclosure statements specifying they have no financial or other interest in the outcome of the project. The contractor's efforts should be closely monitored throughout the contract to ensure an adequate assessment/statement and also to avoid extensive, time consuming, costly revisions. Further, project proponents must be continuously involved.

2-4.4.7 Cooperation with State and Local Agencies. To eliminate duplication with State and local procedures, commands will cooperate with State and local agencies to the fullest extent of the law practicable to reduce duplication between NEPA, State and local requirements. Such cooperation could include:

a. Joint planning processes.

b. Joint environmental research and studies including assessments of the presence or special needs of minority and low-income groups, including foreign language interpretation and collection and analysis of demographic characteristics.

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c. Joint public hearings (except where otherwise provided by statute).

d. Joint EAs.

e. Joint EISs.

2-4.4.8 Scoping. The scoping process will:

a. Invite the participation of affected Federal, State, and local agencies, any Indian tribe, minority and low-income populations, and other interested persons.

b. Determine the scope and the significant issues to be analyzed in depth in the EIS.

c. Identify and eliminate from detailed study the issues, which are not significant or which have been covered by prior environmental review, narrowing the discussion of these issues in the statement to a brief presentation of why they will not have a significant effect on the human environment or providing a reference to their coverage elsewhere.

d. Allocate assignments for preparation of the EIS among the lead and cooperating agencies, with the lead agency retaining responsibility for the statement.

e. Indicate any public EAs and other EISs, which are being or will be prepared, that are related to but are not part of the scope of the impact statement under consideration.

f. Indicate the relationship between the timing of the preparation of EISs and the agency's tentative planning and decision making schedule.

The functions identified to be performed in the preceding paragraphs may be carried out in the context of a public, informal meeting at which written responses or oral presentation resulting from the public notices may be received. Such meetings may be held whenever practicable, but they are not mandatory. There is no authority for the payment of expenses incurred by any private person(s) in the preparation and presentation of information at these meetings. In the event a meeting is not held, the issues are to be addressed by the cognizant command based upon responses to notices processed and documented.

In addition to publication in the Federal Register, the action proponent will mail the Notice of Intent (NOI) and announcement of scoping meeting directly to concerned agencies, as soon as practicable after the cognizant command has determined that an EIS is required and proper chain of command has been notified, N44E will publish a NOI in the Federal Register. The NOI will briefly describe the proposed action and the scoping process to be undertaken. If a public scoping meeting is to be held, a public notice of such meeting will be published in the Federal Register as part of the NOI, or as soon as practical. But in no case will a notice be published later than 15 days prior to the day of the public meeting. In addition to publication in the Federal Register, the NOI and announcement of scoping meeting may be mailed directly to concerned agencies, organizations and individuals and may be published in local newspapers. Per EO 12898, whenever practicable and appropriate, the NOI and announcement of the scoping meeting will be translated for non-English speaking populations.

2-4.5 Significant Issues and Other Factors

2-4.5.1 Classified Actions. Some aspects of a proposed action may involve information that cannot be released to the public because its release is prohibited because it is classified or otherwise precluded by law. This does not relieve the action proponent from complying with the requirements of this instruction. EISs, both draft and final, as well as EAs are to be prepared, safeguarded, and disseminated per the requirements applicable to classified or sensitive unclassified information. When feasible, the documents are to be organized in such a manner that classified or sensitive

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unclassified portions are included as appendices so that the unclassified portions can be made available to the public. Review of classified or sensitive unclassified NEPA documentation will be coordinated with the EPA to fulfill requirements of Section 309 of the Clean Air Act (CAA).
In rare circumstances where even public notice of the desired action would disclose classified information, there is no "proposal" under NEPA and neither an EA nor EIS is required. Plans for actions that would disclose the presence of nuclear weapons, for example, do not constitute "proposals" under NEPA. Such instances must be reviewed and approved by CNO (N4), who may direct that environmental factors be considered using other internal procedures that provide decision-makers with information of a quality equivalent to that produced under NEPA, except for public review and comment, to evaluate the potential environmental impacts of the action. For such actions involving nuclear weapons, the internal procedures will ensure that the following elements are addressed:

a. A description of the worst case accident considering the particular weapons involved.

b. The best estimate for accident probabilities.

c. Alternative site impact information.

d. Additional information on potential land contamination and clean-up.

An EA or EIS containing classified information or other information, for which the public release is prohibited by law, serves the same purpose of ordinary EA or EIS even though all its contents are not subject to pubic review and comment. The entire package must accompany the proposal through the decision making process. The content of an EIS or EA containing portions that cannot be released to the public will therefore meet the same overall content requirements that are applicable to an EA or EIS that is fully published.

2-4.5.2 Continuing Actions. CEQ regulations define major Federal actions subject to evaluation under NEPA to include, among other things, "New and continuing activities." The term "new activities" is intended to encompass future actions, i.e., those that are not ongoing at the time of the proposal. The term "continuing activities", which may necessitate the preparation of a NEPA document, will be applied by the DON to include activities that are presently being carried out in fulfillment of a military mission and function, including existing training functions, where:

a. The currently occurring environmental effects which have not been previously evaluated in a NEPA document and where there is a discovery that substantial environmental degradation is occurring, or is likely to occur, as a result of ongoing operations. Examples: a discovery that significant beach erosion is occurring as a result of continuing amphibious exercises; new designation of wetland habitat or discovery of an endangered species residing in the area of the activity.

b. There is a discovery that the environmental effects of an ongoing activity are significantly and qualitatively different or more severe than predicted in a NEPA document prepared in connection with the commencement of the activity.

A substantial change in a continuing activity, which has the potential for significant environmental impacts, should be considered a proposal for a new action and be documented accordingly. Preparation of an appropriate NEPA document is not a necessary prerequisite, nor a substitute, for compliance with other environmental laws.

2-4.5.3 Emergency Actions. Where emergency circumstances outside the control of the Navy make it necessary to take an action with significant environmental impact without observing the provisions of CEQ regulations, the Navy must consult with the CEQ about alternative arrangements. Requests for such consultation must be

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submitted to N44E as soon as the need is identified to allow consultation with the Secretariat and in appropriate cases, the CEQ. Alternative arrangements will be limited to those aspects of a proposal that must proceed on an emergency basis. The remainder will be subject to normal NEPA review. Ordinarily the failure to properly plan does not establish an emergency.

2-4.6 **Acquisition Programs.** Reference (d) part 6, as implemented by reference (g), sets forth a process that requires the program manager to document at each phase of the acquisition program the potential environmental effects of a planned program. Compliance with NEPA or EO 12114 (Environmental Effects Abroad of Major Federal Actions) is required when a proposed action within an acquisition program will impose a physical effect on the natural environment.

Reference (g) provides a format for the program manager's Programmatic Environmental Analysis (herein referred to as a PEA) associated with an acquisition throughout its entire life cycle, and measures to mitigate adverse effects. The PEA is not a NEPA document. Its purpose is to ensure that decision-makers understand the nature, scope, and timing of an action's potential environmental impacts as that information becomes available. The PEA describes the system, alternatives considered, and potential environmental consequences of planned activities throughout the lifecycle of the program. Depending on the nature of the acquisition, information in the PEA may indicate the potential for significant environmental impact associated with one or more alternatives, thus requiring preparation of NEPA documentation.

Because environmental concerns may develop at any point during the acquisition process, reference (d) requires program managers to maintain the PEA as current throughout the program lifecycle. If the PEA indicates the requirement for NEPA/EO 12114 documentation, such documentation must be completed before a decision can be made that would have an adverse environmental impact or would limit the choice of reasonable alternatives.

The determination of when the potential for significant impact exists is based on project specific requirements. For example, concept development during early phases of acquisition programs (i.e., Concept Exploration and Definition, and Demonstration and Validation) may use techniques that are known not to cause an environmental impact (e.g., computer simulations). In other cases, the potential for significant impact may occur during these early phases, due to testing and evaluation requirements. Other examples of the types of actions with potential for environmental impact are listed in 2-4.3.2 and 2-4.4.3.

2-4.7 ***Pollution Prevention***

a. EPA will be evaluating NEPA documentation being reviewed under authority of Section 309 of the Clean Air Act for incorporation of pollution prevention measures for the obvious reasons, but also to assist Federal agencies in acknowledging and receiving credit for commitment to pollution prevention.

b. The term "pollution prevention" includes: equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control.

During all stages of project formulation, from early planning and NEPA documentation through implementation, action proponents should seek opportunities to incorporate pollution prevention into their programs.

c. The following list describes areas where pollution prevention opportunities may be appropriately addressed during the NEPA scoping and subsequent environmental review phases:

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(1) The definition of the project's purpose and need (it should be clearly identified and not slanted to support the proponent's desires, which could limit pollution prevention options).

(2) The project design specifications and standards.

(3) The sizing of a project (e.g., a smaller project may affect less habitat, have fewer impacts on soil erosion and water quality, and/or result in less induced growth).

(4) The location of a facility (e.g. away from sensitive habitats, close to centralized transportation or other compatible uses).

(5) The range of alternatives (e.g. whether pollution prevention opportunities are included).

(6) Rejection of certain alternatives (e.g. because of an alternative's potential to cause pollution).

(7) Emphasis on environmental requirements (whether the focus is on pollution prevention, source reduction, innovative technologies or traditional end-of pipe, add-on controls).

(8) The capability of the proposed action to prevent pollution.

(9) The secondary effects of a proposed action, which may discourage pollution prevention.

(10) The mitigation measures incorporated into the proposal (e.g. some mitigation measures may have more pollution prevention benefits than others, and significant pollution prevention may require a basic change in the project).

d. Further guidance on compliance with the Pollution Prevention Act, as well as pollution prevention strategies can be found in Chapter 3.

2-4.8 Time Limits. Commands commencing the preparation of an EIS are encouraged to set time limits appropriate to individual actions with due regard for operational requirements and the public and agency comment periods established by CEQ regulations. State or local agencies or members of the public may request that the cognizant command set time limits on the NEPA process. In determining time limits (required to complete the EIS) the command may consider the following factors:

a. Potential for environmental harm.

b. Size of the proposed action.

c. State-of-the-art analytic techniques.

d. Degree of public need for the proposed action, including the consequences of delay.

e. Number of persons and agencies affected.

f. Degree to which relevant information is known and if not known, the time required for obtaining it.

g. Degree to which the action is controversial.

h. Other time limits imposed on the agency by law, regulations, or EO.

2-4.9 Format. All pages of the original document prepared should be 8 1/2 x 11 inch bond, although it is permissible to use foldout sheets as long as the 11 inch vertical dimension is retained. The following format will be used for all EISs and, to the extent appropriate, EAs:

a. **Cover Sheet.** The cover sheet will generally not exceed one page and will include:

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(1) A list of the responsible agencies including the lead agency and any cooperating agencies.

(2) The title of the proposed action that is the subject of the environmental analysis (and if appropriate the titles of related cooperating agency actions), together with the State(s) and county(ies) (or other jurisdiction if applicable) where the action is located.

(3) The name, address, and telephone number of the person at the responsible command who can supply further information.

(4) A designation of the analysis as an EA, DEIS, or FEIS or draft or final supplement.

(5) A one-paragraph abstract of the statement.

(6) The date by which comments must be received.

b. **Summary.** Each EIS will contain a summary that adequately and accurately summarizes the statement. The summary sheet(s) will appear at the very beginning of the document immediately after the cover sheet. The summary should normally not exceed 3 pages. The summary will provide the following:

(1) The name of the action and whether it is administrative or legislative.

(2) A brief description of the action and what geographical region (including State and county, as applicable) is particularly affected.

(3) A description of alternatives considered.

(4) A summary of the environmental impact, particularly adverse environmental effects, and major mitigating actions required. This should include a statement as to whether the action is exempted from the general conformity rule or if the action conforms or does not conform to an applicable State Implementation Plan (SIP) or Federal Implementation Plan (FIP).

(5) A statement as to whether the action is anticipated to have a significant environmental impact or will be scientifically controversial.

c. **Purpose and Need.** This section begins the body of the basic document by explaining why any action is needed. It succinctly and objectively sets out the justification for the proposed action and the essential requirements that must be satisfied to achieve the purposes of the proposed action.

d. **Alternatives Including the Proposed Action.** For the purposes of this section, "reasonably forseeable" includes impacts which have catastrophic consequences, even if their probability of occurence is low, provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason. This section is the heart of the EA or EIS. Based on the information and analysis presented in the sections entitled EXISTING ENVIRONMENT (subsection e) and the ENVIRONMENTAL CONSEQUENCES (subsection f), it should present the environmental impacts of the proposal and the alternatives in comparative (matrix) form, thus sharpening the issues and providing a basis for choice among the options by the decision maker and the public.

Alternatives to the proposed action should include, where relevant, those not within the existing authority of the agency. A rigorous exploration and objective evaluation of the environmental impacts of all reasonable alternative actions are essential, particularly those actions that might enhance environmental quality or avoid some or all of the adverse environmental effects. Sufficient analysis, if applicable, of such alternatives and their environmental benefits, costs, and risks should accompany the proposed action through

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agency review process. If a cost-benefit analysis relevant to the choice among environmentally different alternatives is being considered for the proposed action, it should be incorporated by reference or be appended to the analysis as an aid in evaluating the environmental consequences. When a cost-benefit analysis is prepared, the EA or EIS should discuss the relationship between the analysis and any analysis of unquantified environmental impacts, values and amenities. The weighing of the merits and drawbacks of the various alternatives need not be provided where there are important qualitative considerations. In any event, the analysis should at least indicate those considerations, including factors not related to environmental quality that are likely to be relevant and important to a decision. That will prevent premature foreclosure of options that might enhance environmental quality or have less detrimental effects.

Examples of alternatives include:

(1) Taking no action.

(2) Postponing action.

(3) Selecting actions of a significantly different nature that would meet mission and project objectives with different environmental impacts.

(4) Different designs or details of the proposed action that would present different environmental impacts (including mitigation measures).

In each case, the analysis should be sufficiently detailed to reveal the agency's comparative evaluation of the proposed action and each reasonable alternative. Throughout the EA or EIS, the discussion and analysis should be structured to prevent premature foreclosure of options that might enhance environmental quality or have less detrimental effects.

e. **Existing Environment of the Proposed Action.** The EIS should succinctly describe the environment of the area. This section describes baseline conditions that are used to compare the impacts of the various alternatives. The descriptions are to be no longer than necessary to understand the effects of the proposed action. The amount of detail provided in such descriptions should be commensurate with the extent and impact of the action, and with the amount of information required at the particular level of decision making. Urban quality, historic and cultural resources, and the design of the built environment, including the re-use and conservation potential of various alternatives and mitigation measures should be discussed, if appropriate.

f. **Environmental Consequences.** This section forms the scientific and analytic basis for the comparisons presented under the alternatives section. The discussion will include the environmental impacts of alternatives including the proposed action, any adverse environmental impacts, which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources that would be involved in the proposal should it be implemented. This section should not duplicate the discussions in the alternatives section. It will include several discussions, including:

(1) Direct effects and their significance, i.e., an assessment of the positive and negative effects of the proposed action. The attention given to different factors will vary according to the nature, scale, and location of proposed actions. Primary attention should be given in the statement to a discussion of those factors most evidently impacted by the proposed action.

(2) Indirect effects and their significance. Secondary or indirect consequences for the environment should be included in the analysis.

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Many major Federal actions, especially those that involve construction (for example, new installations, joint use of an installation, etc.), stimulate or induce secondary effects, in the form of associated investments and changed patterns of social and economic activities. Such secondary effects, by their impacts on existing community facilities and activities, by inducing new facilities and activities, or by changes in natural conditions, may often be even more substantial than the primary effects of the original action itself. For example, the effects of the proposed action on population and growth impacts should be estimated, if expected to be significant. An evaluation should be made of the effect of any possible change in population patterns, particularly those which may affect minority and low-income populations, or growth upon the resource base, including land use, water, and public services, of the area in question.

(3) Possible conflicts between the proposed action and the objectives of Federal, State and local land use plans, policies, and controls for the area concerned. This requires a discussion of how the proposed action may conform or conflict with the objectives and specific terms of approved or proposed Federal, State, and local land use plans, policies, and controls, if any, for the area affected, including those developed in response to environmental legislation. Where a conflict or inconsistency exists, the statement should describe the extent to which the agency has reconciled its proposed action with the plan, policy, or control. Justification for any decision to proceed, in the absence of full reconciliation, will be documented.

(4) The environmental effects of alternatives including the proposed action. Comparisons under the alternatives section will be based on the narrative.

(5) Energy requirements and conservation potential of various alternatives and mitigation measures. Comments regarding the energy impact, to include the alternatives considered, will be addressed.

(6) Any irreversible and/or irretrievable commitments of resources that would be involved if the proposed action is implemented. The discussion should identify from a survey of unavoidable impacts the extent to which the action irreversibly curtails the range of potential uses of the environment. The term "resources" in this regard refers to the natural or cultural resources that would be irretrievably committed or lost if the action goes forward.

(7) Relationship between local short--term use of man's environment and maintenance and enhancement of long-term biological productivity. A brief discussion of the extent to which the proposed action involves tradeoffs between short-term environmental gains and the expense of long-term losses or vice versa should be presented. It should also contain a discussion of the extent to which the proposed action forecloses future options. In this context, short-term and long-term do not refer to any fixed time periods, but should be viewed in terms of the environmentally significant consequences of the proposed action.

(8) Means to mitigate and/or monitor adverse environmental impacts (if not previously discussed). Indicate the extent to which countervailing benefits could be realized by following reasonable alternatives to the proposed action that would avoid some or all of the adverse environmental effects. In that connection, where appropriate and meaningful, and as dictated by the scope of the action addressed, cost-benefit analyses of proposed actions may be attached, or summaries thereof, to the assessment or environmental statement. They should clearly indicate the extent to which environmental risk has been reflected in the analysis.

(9) Means to mitigate and/or monitor adverse environmental impacts (if not previously discussed). Mitigation measures in the form of avoidance, design modification, rehabilitation, preservation, or compensation will be discussed when appropriate, and the extent of countervailing

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benefits derived from implementing mitigation measures and/or monitoring programs to avoid or reduce some or all of the adverse environmental effects will be addressed.

Any mitigation measures included in the NEPA document must be coordinated with the appropriate chain of command to ensure concurrence, implementation feasibility, and funding availability. In many cases, mitigation measures should also be coordinated with cognizant regulatory agencies.

(10) Possible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian tribe) land use plans, policies, and controls for the area concerned.

(11) Cumulative impacts (see paragraph 2-3.10) as appropriate and in context with the scope and magnitude of the proposed action.

g. **List of Preparers.** Environmental statements will be prepared using an interdisciplinary approach that will ensure the integrated use of the natural and social sciences and the environmental design arts. To ensure that this approach is undertaken, the statement will list the names, together with their qualifications (expertise, experience professional disciplines) of the persons who were primarily responsible for preparing the EIS or significant background papers, including basic components of the statement. Where possible, the persons who are responsible for a particular analysis, including analyses in background papers, will be identified. Normally the list will not exceed 2 pages.

h. **Appendix.** An appendix to an EIS (circulated with the EIS or readily available upon request) will list all Federal, State, and local agencies from which comments have been requested and provide a distribution list for the DEIS. In addition, the following optional information may be included:

(1) Material prepared in connection with an EIS (as distinct from material that is not so prepared and that is incorporated by reference) such as mailing lists, collection of comment letters, etc.

(2) Material that substantiates any analysis fundamental to the impact statement.

(3) Analytic and relevant material to the decision to be made.

i. **Incorporation by Reference.** To the extent practicable, commands preparing environmental statements will incorporate material into an EIS by reference when the effect will cut down on bulk without impeding agency and public review of the action. The incorporated material will be cited in the statement and its content briefly described. No material may be incorporated by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment. Material based on proprietary data will not be incorporated by reference.

j. **Incomplete or Unavailable Information.** For the purposes of this section, "reasonably foreseeable" includes impacts that have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason.

When the action proponent is evaluating significant adverse effects on the human environment in an EIS and there is incomplete or unavailable information, the action proponent will always make clear that such information is lacking. For such situations the action proponent can take the following actions:

(1) If the incomplete information relevant to reasonably foreseeable significant adverse impacts is essential to a reasoned choice among

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alternatives and the overall costs of obtaining it are not exorbitant, the agency will include the information in the EIS.

(2) If the information relevant to reasonably foreseeable significant adverse impacts cannot be obtained because the overall costs of obtaining it are exorbitant or the means to obtain it are not known (e.g., the means for obtaining it are beyond the state-of-the-art), the action proponent will include within the EIS:

(a) A statement that such information is incomplete or unavailable.

(b) A statement of the relevance of the incomplete or unavailable information to evaluating reasonably foreseeable significant adverse impacts on the human environment.

(c) A summary of existing credible scientific evidence that is relevant to evaluating the reasonably foreseeable significant adverse impacts on the human environment.

(d) An evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community.

2-4.10 Record of Decision. The ROD, as described in paragraph 2-3.15, is the decision made by SECNAV or his/her designee, that completes the EIS process. The ROD is published in the Federal Register and mailed to appropriate agencies, organizations and individuals.

2-4.11 Tiering and Programmatic EISs. CEQ regulations encourage the use of tiering whenever appropriate to eliminate repetitive discussions of the issues and to focus on the actual issues ripe for discussion at each level of the environmental review. Tiering is accomplished through the preparation of a broad programmatic EIS discussing the impacts of a wide-ranging or long-term stepped program followed by narrower statements or EAs concentrating solely on issues specific to the analysis subsequently prepared. Tiering is appropriate when it helps the lead agency to focus on issues that are ripe for decision and excludes from consideration issues already decided or not yet ripe. A sequence of statements or analysis is conducted. The following are examples in which tiering can be accomplished:

a. From a broad program, plan, or policy EIS (not necessarily site specific) to a subordinate/smaller scope program, plan, or policy statement or analysis (usually site specific). For example, a national program providing for mineral exploration on military-held lands with a subsequent analysis tiered for each installation impacted, or the initiation of a new training apparatus where the use of the apparatus itself may impact the environment with subsequent-tiered analysis at each site proposed for locating such training.

b. From an EIS on a specific action at an early stage (such as need and site selection) to a supplement (which is preferred) or a subsequent statement or analysis at a later stage (such as environmental mitigation). For example: the planning for the use of long-term staged construction for the establishment of a new installation to homeport and operate a class of vessels with a subsequent-tiered analysis as each stage is programmed and proposed; the planning for the construction of a communication network involving the establishment of sending and receiving apparatus at various geographic locations with a subsequent tiered analysis for each location sited; or a proposal for the homeporting of a new vessel to operate off of the east coast of the U.S. with a subsequent-tiered analysis of the establishment of the homeport at a preferred specific east coast location.

2-4.11.1 Preparation of the Programmatic EIS. In addition to the discussion required by these regulations for inclusion in EIS, the programmatic EIS will discuss:

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a. A description of the subsequent stages or sites that may ultimately be proposed in as much detail as presently possible.

b. The implementing factors of the program that are known at the time of impact statement preparation.

c. The environmental impacts that will result from establishment of the overall program itself that will be similar for subsequent stages or sites as further implementation plans are proposed.

d. The appropriate mitigation measures that will be similarly proposed for subsequent stages or sites.

2-4.11.2 Preparation of a Tiered Analysis. The analytical document used for stage or site specified analysis subsequent to the programmatic EIS will also be an EIS when the subsequent tier itself may have a significant impact on the quality of the human environment, or when an impact statement is otherwise required. Otherwise, it is appropriate to document the tiered analysis with an EA to fully assess the need for further documentation or whether a FONSI would be appropriate.

In addition to the discussion required by these regulations for inclusion in EISs and EAs, each subsequent-tiered analysis is required to:

a. Summarize the program-wide issues discussed in the programmatic statement and incorporate discussions from the programmatic statement by reference.

b. Concentrate on the issues specific to the subsequent action.

c. State where the earlier document is available.

2-4.11.3 Processing Programmatic Environmental Documentation. Programmatic EISs and all of the subsequent tiered impact statements or EAs will be prepared, circulated and filed with EPA in the same fashion as required of any other EIS.

2-4.12 Processing Supplemental Statements. Supplements to either DEISs or FEISs will be prepared if there are substantial changes made in the proposed action that are relevant to environmental concerns or significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. Such supplements are usually prepared, circulated and filed in the same fashion as a DEIS or FEIS. However, scoping is not required.

2-4.13 Procedures for Conducting Public Hearings Under NEPA. Hearings will be conducted as follows:

a. **Guidelines and Standards.** The action proponent, in coordination with N44E, will determine whether a public hearing will be held. Public hearings are appropriate in the following situations:

(1) Where the proposed action by the agency will have a direct or peculiar environmental impact on the people residing in a particular geographic area.

(2) Where public organizations or members of the public possess expertise concerning the environmental impact of the action that may not otherwise be available.

(3) Where no overriding consideration of national security or time makes it illegal or impractical to involve such organizations or members of the public in the consideration of a proposed action in which there is evidence of wide public interest.

(4) When a request for a hearing by another agency with jurisdiction over the action has been submitted supported by reasons a hearing will be helpful.

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(5) Where a minority or low-income population may be affected.

b. **Preparation.** Preparation for the hearing will include the following:

(1) The purpose of the public hearing on a proposed project is twofold. First, the hearing is intended to provide interested members of the general public with relevant information. Second, the hearing affords members of the public an opportunity to present their views of the proposed action. The two foregoing objectives dictate the format for conducting public hearings.

(2) If the proposed action does dictate that a hearing be held, the public must be advised of the proposed hearing via the Federal Register, at least 15 days prior to the scheduled hearing. This Federal Register notice is in addition to publication in local newspapers. Per EO 12898, notice should be provided, wherever practicable and appropriate, in foreign language local newspapers. Notification should include:

(a) Date, time, phone number of the hearing officer.

(b) The request that speakers submit in writing their intention to participate.

(c) Any limitation on the length of oral statements.

(d) Suggestion that technical statements or statements of considerable length be submitted in writing.

(e) Summary of the proposed action.

(f) The findings contained in the DEIS.

(g) Offices/location where the DEIS is available for examination.

(h) The request that any individual or groups with special needs, such as accessibility/transportation, need for foreign language interpretation, etc. notify the agency conducting the hearing.

(3) Copies of the DEIS will be made available to the public at the appropriate regional offices of the agency, if feasible. Copies of the DEIS should also be forwarded to the appropriate State, regional, and metropolitan clearinghouses (unless the governor of the State involved has designated some other point for receipt of the information), at the same time the statement is sent to CEQ, EPA, and other Federal agencies. The DEIS will be made available to the public at least 15 days prior to public hearings. Local outlets such as libraries, county commissioner's offices, etc., should be used whenever possible. Whenever practicable and appropriate, document summaries will be translated into languages other than English.

(4) The hearing should be held at a time and place and in an area readily accessible to civilian organizations and individuals interested in the proposed action. Hearings are generally preferable in a civilian facility such as a high school auditorium on a weekday evening when such groups can reasonably be expected to attend.

(5) The action proponent should select a hearing officer calculated to achieve both purposes for the hearing described in subparagraph (1) above. The hearing officer should be of appropriate seniority, preferably military, be thoroughly familiar with the proposed action, and of suitable temperament to preside at a public meeting with, possibly, the news media in attendance. There should be only one hearing officer; assistance may be provided by other personnel who are also familiar with the proposed action or some phase of it. These personnel may be utilized in the presentation phase of the hearing to explain details or specialized portions of the proposed action. Non-English interpreters should be present, as appropriate.

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(6) A verbatim written record of the hearing is required and an experienced court-reporter or stenographer may be used in preparing the record. A tape recording of the hearing may be made. All written exhibits submitted to the hearing officer during the hearing or prior to the record being completed should be appended to the record as exhibits. A list of persons attending the hearing should also be added to the record, the organizations or interests they represent and their addresses. Persons who have indicated that they desire a copy of the hearing may be mailed a copy when completed, subject to the cost of reproduction.

c. **Format.** The following format for the conduct of a hearing is provided as a general guideline. Hearing officers should tailor the format for each hearing as the circumstances dictate to meet the objectives of the hearing. The objectives are to provide information to the public and to record the opinions of interested persons for later evaluation in conjunction with the proposed action.

(1) The hearing officer should be apprised of who is attending the hearing. A record of attendance is of assistance in preparing the record, in recognizing individuals who desire to make a statement, and in mailing written answers to persons who desire them. That record can be compiled by having each person attending the hearing complete an individual card indicating name, address, and organization represented, if any, and whether a statement will be made at the hearing. An appropriate number of attendants may be utilized to distribute and collect the cards and to separate cards of those who desire to make a statement from those who do not. The cards may then be used by the hearing officer as an orderly system for calling upon individuals who desire to make statements. Additionally, those individuals responding to the announcement and requesting opportunity to speak should be asked to provide copies of any remarks for hearing proceedings.

(2) The hearing officer should first introduce himself/herself and any assistants, make a brief statement as to the purpose of the hearing, and state the general ground rules for conduct. The explanation or purpose of the hearing will be simplified if written copies have previously been distributed to attendees or made available at the attendance desk. That would also be an appropriate point to welcome any dignitaries who are present. The hearing officer should ensure that it is understood that he/she is not to make any decision as to whether the project is to proceed, be modified, or abandoned.

(3) The hearing officer should fully explain what the proposed action entails, including information on alternative courses of action. He/she may call upon one or more assistants to explain any particular phase of the program.

(4) The hearing officer should answer questions that seek clarification of the action only and should not attempt to respond to attacks on it. All questions asked should be included in the record of the hearing.

(5) The persons attending the hearing must be afforded an opportunity to present oral and/or written statements. The hearing officer should ensure that he/she has the name and address of each person submitting an oral or written statement. The attendees should be permitted to submit written statements during the hearing and within a reasonable time following the hearing (normally 2 weeks). A reasonable length of time (3 to 5 minutes) should be allotted for oral statements, and if this action is contemplated, it should be publicized in the public notice of the hearing. Individuals who desire to make a written or oral statement but did not indicate so on the card submitted when they entered the meeting should be afforded an opportunity to do so after all other scheduled statements have been completed.

(6) When it is time to adjourn the meeting, the hearing officer should thank the attendees and adjourn the meeting. It may be that atten-

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dance will warrant an additional day, perhaps at another time and location. If so, the hearing officer should announce the intent, but not normally agree to again repeat the entire procedure of publishing in the Federal Register, etc. At the conclusion of the meeting, the hearing officer should not express any opinion on the merits of the proposals or comments presented by anyone at the hearing.

2-5 Navy Policy

2-5.1 General. The Navy shall act with care to ensure, to the maximum extent practicable, that in conducting its mission of providing for the national defense, it does so in a manner consistent with national environmental policies, including environmental justice. In so doing, the Navy recognizes that the NEPA process includes the systematic examination of the likely environmental consequences of implementing a proposed action. To be an effective decision making tool, the process shall be integrated with other Navy-Marine Corps project planning at the earliest possible time. This ensures that planning and decision-making reflect environmental values, avoid delays, and avoid potential conflicts. Care shall be taken to ensure that, consistent with other national policies and national security requirements, practical means and measures are used to protect, restore, and enhance the quality of the environment, to avoid or minimize adverse environmental consequences, and to attain the objectives of:

a. Achieving the widest range of beneficial uses of the environment without degradation, risk to health and safety, or other consequences that are undesirable and unintended.

b. Preserving important historic, cultural, and natural aspects of our national heritage, and maintaining, where possible, an environment that supports diversity and variety of individual choice.

c. Achieving a balance between resource use and development within the sustained carrying capacity of the ecosystem involved.

d. Enhancing the quality of renewable resources and working toward the maximum attainable recycling of depletable resources.

e. Providing the opportunity for public comment.

2-5.2 NEPA Compliance. To comply (see Figure 2.1) with NEPA, the Navy shall:

a. Assess environmental consequences of proposed actions that could affect the quality of the environment in the U.S., its territories, and possessions per DoD and CEQ regulations.

b. Use a systematic, interdisciplinary approach that ensures the integrated use of the natural and social sciences and environmental considerations in planning and decision making where there may be an impact on man's environment.

c. Ensure that presently unmeasured environmental amenities are considered in the decision making process.

d. Consider the reasonable alternatives to recommended actions in any proposal that would involve unresolved conflicts concerning alternative uses of available resources.

e. Make available to States, counties, municipalities, institutions, and individuals advice and information useful in restoring, maintaining, and enhancing the quality of the environment.

f. Use ecological information in planning and developing resource-oriented projects.

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LEVELS OF DOCUMENTATION

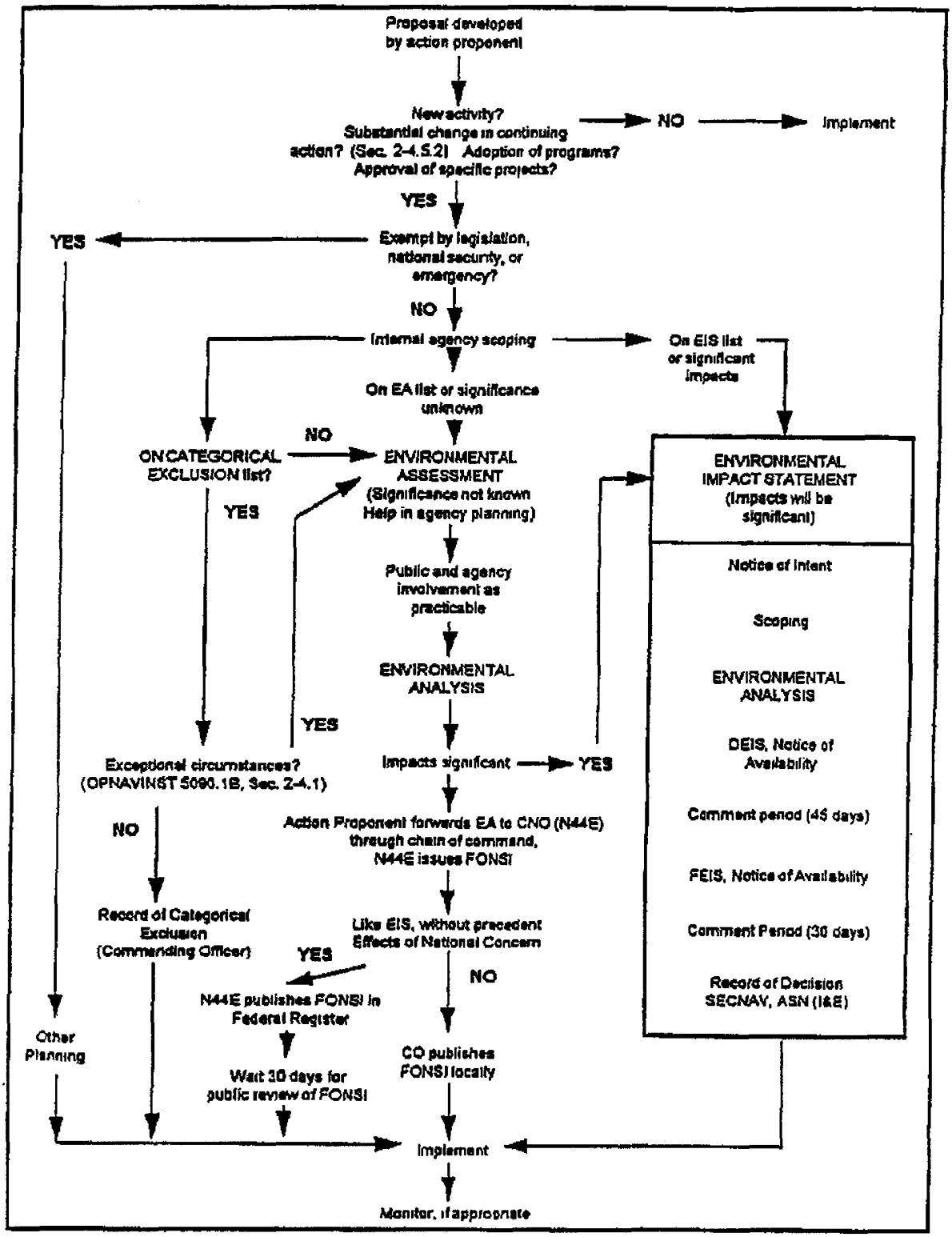
Proposal developed by action proponent
New activity? Substantial change in continuing action? (Sec. 2-4.5.2) Adoption of programs? Approval of specific projects?
NO
Implement
YES
Exempt by legislation, national security, or emergency?
YES
NO
Internal agency scoping
On EIS list or significant impacts
On EA list or significance unknown
ON CATEGORICAL EXCLUSION list?
NO
ENVIRONMENTAL ASSESSMENT (Significance not known Help in agency planning)
YES
Public and agency involvement as practicable
ENVIRONMENTAL ANALYSIS
Exceptional circumstances? (OPNAVINST 5090.1B, Sec. 2-4.1)
YES
Impacts significant
YES
NO
Action Proponent forwards EA to CNO (N44E) through chain of command, N44E issues FONSI
Record of Categorical Exclusion (Commanding Officer)
Like EIS, without precedent Effects of National Concern
YES
NO
N44E publishes FONSI in Federal Register
Other Planning
CO publishes FONSI locally
Wait 30 days for public review of FONSI
Implement
Monitor, if appropriate
ENVIRONMENTAL IMPACT STATEMENT (Impacts will be significant)
Notice of Intent
Scoping
ENVIRONMENTAL ANALYSIS
DEIS, Notice of Availability
Comment period (45 days)
FEIS, Notice of Availability
Comment Period (30 days)
Record of Decision SECNAV, ASN (I&E)

Figure 2.1

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2-5.2.1 EAs. An assessment of an action shall be made by the action proponent unless it has been determined by appropriate authority that an EIS shall be prepared or that an action falls within the scope of one or more categorical exclusions.

Prior to the finalization of the EA, the action proponent must determine if the General Conformity Rule applies to the proposed action as the action is defined in the EA. The CNO Interim Guidance on Compliance with the Clean Air Act General Conformity Rule describes the requirements and procedures for preparing a Conformity Review. If a Record of Non-Applicability is prepared for a proposed action occurring in a nonattainment or maintenance area, it shall be signed by the action proponent and along with the supporting analysis, included in the EA for processing.

In the case where a Conformity Determination is required, a "review EA" with the draft Conformity Determination as an appendix shall be distributed to appropriate review agencies and interested parties listed in the Conformity Rule for a 30-day comment period (See Appendix F). Concurrently, a public notice on the availability of a Draft Conformity Determination shall be published in the local newspaper. Once the EA with its Conformity Determination is finalized, it shall be processed with in the Navy as follows, except as noted in paragraph 2-6.2.

a. The action proponent shall submit five copies of the completed EA to N44E via the chain of command.

b. In the forwarding endorsement, the action proponent shall provide recommendations relative to further disposition, if applicable and agree to implement any mitigating measures included in the EA that are necessary to reduce potential impacts to insignificant levels.

c. N44E shall evaluate the documented impact of the proposed action on the environment and shall advise the action proponent if additional information is required.

d. Based on evaluation of the EA, N44E shall decide whether a FONSI is appropriate, or whether the proposed action would generate significant impacts. The inclusion of mitigation measures as part of the proposed action may bring impacts below the threshold of significance. If appropriate, N44E shall prepare a FONSI and notify the action proponent to complete public notification and the NEPA process. If the EA has included a Conformity Determination, which has undergone public review, N44E shall review and sign the Conformity Determination as part of the FONSI. A notice of the availability of a FONSI/ Conformity Determination must be published in a local newspaper within 30 days of signature. All mitigation committed to in the FONSI is legally binding on the action proponent, and must be implemented. Public notification shall normally consist of newspaper publication of a summary of the FONSI (provided by N44E) and direct mail-out of the full FONSI to any interested parties (as defined during preparation of the EA). The newspaper publication shall be for 3 consecutive days in the "Public Notices" section of a newspaper with distribution in the area of the proposed action. In some cases where publication in large-city newspapers would result in prohibitively high cost, the action proponent may, in coordination with N44E, opt for a broad mail-out of the FONSI to all regulatory/resource agencies, libraries, and elected officials, in lieu of newspaper publication. Where appropriate, publication should also include foreign-language newspapers. After the FONSI is issued, the action proponent shall fill out Standard Form 298 and send it and the EA/FONSI to:

Defense Technical Information Center
Cameron Station, Bldg. 5
Alexandria, VA 22304-6145

For information call (703) 274-6984.

e. If the proposed action involves:

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(1) Effects of national concern.

(2) Action closely similar to conditions that normally require the preparation of an EIS.

(3) An action without precedent.

N44E shall prepare the FONSI in coordination with and for approval by Assistant Secretary of the Navy (Installation & Environment) (ASN (I&E)), for publication in the Federal Register. N44E shall also notify the action proponent to complete the public notification and NEPA process.

The FONSI for projects under these circumstances shall be made available to the public for 30 days before the FONSI becomes final at which time the action may then begin.

2-5.2.2 **EISs.** EISs shall be concise, clear, and to the point, and shall be supported by evidence that the Navy, as a whole, and the responsible command, in particular, have made the necessary environmental analyses.

An EIS shall be prepared for every recommendation or report on proposals for legislation and other major Federal actions undertaken by the Navy that significantly affect the quality of the human environment unless otherwise provided in these procedures or other applicable laws.

2-5.2.2.1 **Lead Agency.** The Navy must be accorded the position of lead agency or cooperating agency when dealing with State and local agencies.

2-5.2.2.2 **Emergency Circumstances.** Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provisions of these regulations, the responsible major claimant shall advise N44E who shall facilitate additional consultation with the CEQ via the ASN(I&E) regarding alternative arrangements. The Navy and the CEQ shall limit such arrangements to control the immediate impacts of the emergency. Other actions associated with the emergency remain subject to the requirements of this instruction.

2-5.2.2.3 **Scoping.** N44E shall be notified as soon as possible after the cognizant command has determined an EIS is required.

N44E shall maintain and disseminate to action proponents a list of potentially interested national organizations, including those organizations which have requested that notices be regularly provided.

2-5.2.2.4 **Processing the DEIS.** The DEIS shall be processed as follows:

a. The action proponent shall submit 10 copies of the DEIS to N44E via the chain of command. If the proposed DEIS concerns matters that can be expected to generate considerable public interest or controversy, a copy of the statement and all subsequent correspondence shall be furnished to the Chief of Information (CHINFO) by N44E.

b. In the forwarding endorsement, the appropriate major claimant shall provide recommendations relative to further disposition if applicable.

c. After receiving the proposed DEIS, N44E evaluates the documented impact of the proposed action on the environment and advises the action proponent if additional information is required.

d. If the document is to be filed as a DEIS, N44E shall forward it to the ASN(I&E) for approval for filing with EPA.

e. If the ASN(I&E) does not concur that the document should be filed, the statement may be returned for further action.

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f. Once the decision is made to file a statement, the action proponent may be required to coordinate with or provide N44E with additional copies of the DEIS for distribution. The number of copies shall vary depending on the action contemplated.

g. In conjunction with the foregoing distribution, specific comments shall be requested from:

(1) Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved or that is authorized to develop and enforce standards applicable to the proposed action.

(2) Appropriate State and local agencies that are authorized to develop and enforce standards applicable to the proposed action.

(3) Indian tribes, when the effects may be on a reservation.

(4) Any agency that has requested that it receive statements on actions of the kind proposed.

(5) The public, affirmatively soliciting comments from those persons or organizations who may reasonably be interested or affected.

(6) Minority and low-income populations.

h. A minimum of 45 days is allocated for agency/public review, commencing with the date on which notice of the DEIS appears in the Federal Register. Normally that date shall be the Friday following the week the statement is received by EPA. If the Navy receives a timely request for additional time to comment, the review time for that requestor can be extended. Failure to file timely comments shall not be a sufficient reason for extending the review period.

i. The General Conformity Rule reporting requirements are similar to those for an EA. The appropriate documentation to satisfy the Conformity Review shall be included in the DEIS. A notice of availability of the Draft Conformity Determination shall be published in the local newspaper at the time the DEIS is filed with EPA. The comment period shall run concurrently with the 45-day DEIS review period.

j. As part of the review process, public hearings may be held. A public notice (Federal Register and direct mailing) of hearing schedules shall be published at least 15 days prior to the hearing.

2-5.2.2.5 Processing the FEIS. The FEIS shall be processed as follows:

a. After the passage of a minimum of 45 days from the date the announcement of the DEIS appears in the Federal Register, a FEIS can be filed. All comments received on the DEIS shall be incorporated into the FEIS. Where comments reveal previously unrecognized impacts or changes to identified impacts, sufficient analysis thereof shall be included. Reproduction of individual comments received from agencies and the public where relevant shall be accomplished; however, inclusion of verbatim records of public hearings is discouraged. Consideration of the hearings can be ensured by summarizing those comments under relevant topic headings, followed by an appropriate response. A meaningful response to all responsible opposing views that have not been adequately addressed in the DEIS shall be included. Possible responses in the FEIS include:

(1) Modify alternatives including the proposed action.

(2) Develop and evaluate alternatives not previously given serious consideration.

(3) Supplement, improve or modify the analyses.

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(4) Make factual corrections.

(5) Explain why the comments do not warrant further response, citing the sources, authorities, or reasons that support such a position, and, if appropriate, indicate those circumstances that would trigger a reappraisal or further response.

b. Where Navy response to comments can be accomplished by referencing sections contained in the DEIS, pertinent sections shall be clearly identified in the response.

c. If appropriate, an unsigned version of the Final Conformity Determination shall be included in the FEIS.

d. After preparation of the FEIS, the originator shall again forward a minimum of 10 copies of the statement to N44E for review and appropriate disposition. Upon approval of the FEIS by the ASN(I&E), N44E shall notify the action proponent to begin public distribution and shall file FEIS with the EPA. EPA shall publish the notice of availability in the Federal Register, which shall start the 30-day public review period. The FEIS shall be distributed to recipients of the DEIS and to any person, organization or agency that submitted substantive comments on the DEIS. The action proponent shall also fill out Standard Form 298 and send it and the FEIS to:

Defense Technical Information Center
Cameron Station, Bldg. 5
Alexandria, VA 22304-6145

For information, phone (703) 274-6984.

EPA shall publish a notice of availability in the Federal Register each week of the EISs filed the previous week. The minimum time period for FEIS public review shall be calculated from the date of this notice. Public distribution of FEISs shall occur no later than the time that copies are filed with EPA.

2-5.2.3 Record of Decision. No decision that would result in the irretrievable commitment of resources shall be made on a proposed action until the later of the following dates:

a. 90 days after publication of the Federal Register notice announcing the filing of the DEIS with EPA.

b. 30 days after publication of the Federal Register notice of the filing of the FEIS with EPA.

N44E shall prepare and forward a draft ROD to SECNAV, or designee, for approval. If appropriate, the Final Conformity Determination shall be incorporated into the ROD. When the ROD is approved, N44E shall arrange for its publication in the Federal Register.

In addition to Federal Register publication, the action proponent shall distribute the ROD to all interested parties. If appropriate, a notice of availability of Final Conformity Determination shall be published in the local newspaper within 30 days of the approval of the ROD, and distributed to the agencies and interested parties.

2-5.2.4 Processing Statements Originated by Other Federal Agencies. Environmental statements originated by other Federal agencies shall be processed as follows:

a. The Federal agency originating the impact statement submits the statement to ASN (I&E).

b. ASN(I&E) refers the statement to N44E for review.

c. N44E, after independent review, and after referring the statement to the command or activity with the expertise for detailed review and return comments, advises ASN(I&E) of the concurrence/nonconcurrence with the statement for the Navy.

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2-5.2.5 Public Hearing Under NEPA. In each case where a public hearing is deemed appropriate, N44E shall direct that a public hearing be accomplished (see paragraph 2-4.13). The following action shall be taken:

a. Information to be published in the Federal Register shall be forwarded by N44E to Navy Judge Advocate General (NJAG) at least 7 days prior to the scheduled publication date.

b. A Navy public affairs representative, if at all possible, shall monitor the hearing and assist Navy officials in dealing with news media covering the event.

2-5.2.6 CNO Environment Review Panel. The CNO Environment Review Panel shall:

a. Review EAs and EISs upon request of N44E.

b. Recommend to N44E and ASN(I&E) when in the panel's opinion, DEISs should be submitted to the EPA, other Federal agencies, and to the public for appropriate comment.

c. Recommend to N44E whether a FONSI or preparation of an EIS is the appropriate disposition of an EA under review.

The necessity for convening the review panel shall be an option left to the chair. In individual cases and depending upon the individual submission, unanimous panel concurrence is not necessary to decide on the dispensation of a particular assessment.

2-5.2.7 Training. Every person preparing, implementing, supervising, and managing projects involving categorical exclusions, EAs, and EISs shall have received Environmental and Natural Resources training outlined in Chapter 24 of this instruction, shall have received comprehensive NEPA training specific to their job assignment, and shall be familiar with the provisions of this chapter.

2-6 Responsibilities

2-6.1 General. Although SECNAV has the ultimate decision-making authority, responsibility for compliance with NEPA, as with all environmental responsibilities, rests within the entire Navy chain of command in the same manner as responsibility for developing and, ultimately, implementing the proposed action.

2-6.2 DCNO (Logistics) or designee shall:

a. Implement Navy policy regarding NEPA compliance.

b. Advise commands of the requirement for submitting EAs or EISs. When requested, furnish commands necessary information (i.e. list of potentially interested national organizations for scoping process of EISs).

c. Provide review of documents submitted for CNO decision, including EAs and EISs. Make decisions on whether FONSI is appropriate for EAs submitted for CNO review, or if an EIS is required (see paragraph 2-6.5 for exceptions).

d. Coordinate review of selected EAs and statements through the CNO Environmental Review Panel.

e. Coordinate with the CEQ, EPA, the appropriate Assistant Secretaries of Defense, ASN-(I&E), and other DoD components and Federal agencies concerned with environmental matters.

f. Coordinate with CHINFO for public release of EAs, EISs, FONSIs, RODs, and corresponding press statements and query responses.

g. Coordinate with JAG to place required notices in the Federal Register.

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h. Coordinate with commands to decide feasibility of public hearings under NEPA process.

i. Provide assistance for actions initiated by private persons, State or local agencies, and other non-Navy/DoD entities for which Navy involvement may be reasonably foreseen.

j. Identify major decision points wherein environmental effects shall be considered to be associated with naval actions.

2-6.3 Major claimants, acquisition program managers, and commanding officers of shore activities shall:

a. Ensure that all appropriate instructions including those requiring written justification for projects or programs, collectively or separately, involving research, development, test and evaluation (RDT&E), MILCON, operations and maintenance, Navy (O&MN), defense business operating fund (DBOF), urgent minor construction, land acquisitions, natural resources management, weapons and support system procurement, and special projects, include the requirements for funding and scheduling for environmental documentation, as necessary.

b. Review potential environmental impacts associated with a proposed action at the initial planning stage, such as during the facility study in the instance of MILCON projects, and also at each following significant step or decision in the development of a program or project as warranted. The intent of NEPA is to encourage participation of Federal and State-involved agencies and affected citizens in the assessment procedure, as appropriate. The lack of such coordination has been a significant point raised in subsequent litigation as well as causing a gap in information supplied for established review procedures. Accordingly, early contact with those affected shall be encouraged. The establishment of a dialogue in most instances shall be necessary if NEPA is to be implemented. The dialogue shall be sufficiently detailed and documented to identify significant impacts and environmental controversy.

c. Conduct assessments of the environmental effects of current and proposed actions under the criteria of this chapter and send appropriate documentation to N44E via the chain of command.

d. Participate in the formulation of, and ensure commitment to, FONSI/ROD conclusions and any mitigation and monitoring requirements established.

e. Complete environmental documentation for training exercises off military property at least 120 days before the authorization of the exercise in question. If it is not possible to prepare the appropriate environmental document within the time periods identified, N44E shall be so informed, preferably in writing. Pertinent sections of environmental documents prepared for training maneuvers shall also be incorporated into applicable operational plans.

f. Encourage by all means possible a sense of environmental responsibility and awareness among personnel to implement most effectively the spirit of NEPA. All personnel who are engaged in any activity or combination of activities that significantly affect the quality of the human environment shall be aware of the NEPA responsibility. Only through alertness, foresight, and notification through the chain of command shall NEPA goals be realized.

2-6.4 CNO Environmental Review Panel shall advise and assist the DCNO (Logistics) on EA and EIS matters.

2-6.5 Special Coordination Requirements. Communication and coordination are primary factors in a successful NEPA process and are the responsibility of all concerned. Command counsel and public affairs offices shall be integral parts of

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a concerted coordination effort. There are, however, several types of actions that require special coordination and, for which, action proponents shall establish coordination early in the NEPA process:

a. Real estate acquisition actions shall be coordinated with N44 (Shore Activities Division) and with the Real Estate Division of NAVFAC-ENGCOM.

b. Actions involving the operation of ships and aircraft and those that are concerned with the management of natural resources shall be coordinated with CNO (N45) (Environmental Protection, Safety, and Occupational Health Division).

c. Under EO 12344, statutorily prescribed by Public Law 98-525 (42 U.S. Code (USC) 7558, note), the Director, Naval Nuclear Propulsion (N00N) is responsible for prescribing and enforcing environmental standards and regulations for the control of radiation and radioactivity associated with naval nuclear propulsion activities, including safety and health of workers, operators, and the general public. Accordingly, the Director or designee, in coordination with N44 (Shore Activities Division) or designee, is responsible for developing, approving, and issuing EAs and FONSIs for actions within the purview of N00N, including obtaining the concurrence of other affected Navy commands as appropriate. ASN-(I&E) or designee concurrence/ approval shall be obtained on any decision to prepare an EIS or on any Record of Decision.

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CHAPTER 3

POLLUTION PREVENTION

3-1 Scope

a. This chapter provides pollution prevention policies and procedures applicable to all Navy shore facility operations in the United States, including the applicable requirements of Executive Order (EO) 12856 of 3 August 1993 which mandates Federal facility compliance with the Pollution Prevention Act. Although EO 12856 does not apply to Federal facilities outside of the customs territory of the United States, the Navy will fully comply with EO 12856 and all related Navy and Department of Defense (DoD) policy in Guam.

b. Pollution prevention for ships is discussed in Chapter 19. Pollution prevention in National Environmental Policy Act (NEPA) actions is discussed in Chapter 2.

3-1.1 References. Relevant references are:

a. 29 CFR 1910.1200, OSHA Hazard Communication Standard;

b. 40 CFR 261, Identification and Listing of Hazardous Waste;

c. 40 CFR 302, EPA Designation, Reportable Quantities and Notification Requirements for Hazardous Substances under CERCLA;

d. 40 CFR 355, Regulations for Emergency Planning and Notification Under CERCLA;

e. 40 CFR 372, Toxic Chemical Release Reporting Regulations;

f. 49 CFR 173, Shippers - General Requirements for Shipments and Packaging;

g. DoD Directive 4210.15 of 27 July 1989, Hazardous Material Pollution Prevention; (NOTAL)

h. DoD Instruction 6050.5 of 29 October 1990, DoD Hazard Communication Program; (NOTAL)

i. OPNAVINST 4110.2, Hazardous Material Control and Management (HMC&M); (NOTAL)

j. OPNAVINST 5100.23D, Navy Occupational Safety and Health (NAVOSH) Program Manual; (NOTAL)

k. NAVSUPINST 4110.528, Shelf Life Item Identification, Management and Control (NOTAL).

3-2 Legislation

3-2.1 Pollution Prevention Act of 1990. This Act establishes the national policy that "pollution should be prevented or reduced at the source whenever feasible; pollution that cannot be prevented should be recycled in an environmentally safe manner, whenever feasible; pollution that cannot be prevented or recycled should be treated in an environmentally safe manner whenever feasible; and disposal or other release into the environment should be employed only as a last resort and should be conducted in an environmentally safe manner."

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3-2.2 **Resource Conservation and Recovery Act (RCRA).** RCRA requires the cradle-to-grave management of hazardous waste (HW). It also encourages the beneficial reuse of solid waste through recycling and reuse as an energy source. The 1984 RCRA amendments require HW generators and treatment/storage/disposal (TSD) facility owners to certify that the generator has in place a program to "reduce the volume or quantity and toxicity" of waste and that the TSD method minimizes the threat to health and the environment. In addition, generators are required to report the changes in volume and toxicity of waste actually achieved during the year of the report in comparison to previous years.

3-3 Terms and Definitions

3-3.1 **Authorized Use List (AUL).** The list of all hazardous material (HM) that is required to support the requirements of a command or facility, developed per reference (i).

3-3.2 **Consolidated Hazardous Material Reutilization and Inventory Management Program (CHRIMP).** CHRIMP is a successful methodology to achieve life-cycle hazardous material control and management (HMC&M) and pollution prevention at the command and facility levels. The Navy CHRIMP manual provides a standardized approach and guidance for the development and implementation of centralized HMC&M practices that result in reductions of HM that is procured, stocked, distributed, and eventually disposed of as waste.

3-3.3 **Extremely Hazardous Substance (EHS).** Any substance listed in Appendices A and B of reference (d).

3-3.4 **Hazardous Material.** Any material that is regulated as a HM per reference (f), requires a material safety data sheet (MSDS) per reference (a), or which during end use, treatment, handling, packaging, storage, transportation, or disposal meets or has components which meet or have the potential to meet the definition of a HW as defined by reference (b) Subparts A, B, C, or D. In general, HM is defined as any material, which because of its quantity, concentration, or physical, chemical, or infectious characteristics, may pose a substantial hazard to human health or the environment. Included in this definition are all extremely hazardous substances, hazardous chemicals, hazardous substances, and toxic chemicals.

Designation of a material by this definition, when separately regulated or controlled by other instructions or directives, does not eliminate the need for adherence to hazard-specific guidance which takes precedence over this instruction for control purposes. Such materials include ammunition, weapons, explosives and explosive-actuated devices, propellants, pyrotechnics, chemical and biological warfare materials, medical and pharmaceutical materials, medical waste and infectious materials, bulk fuels, radioactive materials, and other materials such as asbestos and mercury. These materials should also be considered hazardous to the extent personnel exposure may occur incidental to manufacture, storage, use, and demilitarization of these items.

3-3.5 **Hazardous Substance (HS).** Any substance listed in Table 302.4 of reference (c).

3-3.6 **Hazardous Waste.** The term "hazardous waste" means a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may:

a. Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

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Note that State regulations may be more stringent and take precedence over Federal regulations.

3-3.7 Pollution/Pollutants. All non-product outputs, irrespective of any recycling, treatment, or management that may prevent or mitigate releases to the environment.

3-3.8 Pollution Prevention. Source reduction and other practices that reduce or eliminate the creation of pollutants through:

a. Increased efficiency in the use of raw materials, energy, water, or other resources.

b. Protection of natural resources by conservation.

Examples of pollution prevention techniques include:

a. Input substitution

b. Product reformulation

c. Process redesign/modification

d. Process modification

e. Improved operation and maintenance

f. Integrated recycling.

3-3.9 Recycled Material. Previously used materials that can be utilized in place of a raw or source material in the manufacturing process. If not so utilized, this material would become waste.

3-3.10 Recycling. Using, reusing, or reclaiming materials, and includes processes that regenerate a material or recover a usable product from it.

3-3.11 Source Reduction. Any practice which:

a. Reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, and disposal

b. Reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.

The term includes equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control.

3-3.12 Toxic Chemical. Any substance listed in reference (e).

3-3.13 Toxic Chemical Use Reduction. Pollution prevention action to reduce, avoid, or eliminate, the use of toxic chemicals.

3-3.14 Toxic Chemical Use Substitution. Pollution prevention actions to reduce, avoid, or eliminate, the use of toxic chemicals.

3-3.15 Used/Excess HM. HM for which there is no further, immediate use aboard the ship or at the shore facility possessing the material. Such material may ultimately be used on another ship or at another shore facility for different purposes other than initially manufactured, or by commercial industry.

3-3.16 Waste. See "Pollution/Pollutants."

3-3.17 Waste Minimization. Source reduction and the following types of recycling:

a. Beneficial use/reuse

b. Reclamation.

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Waste minimization does not include recycling whose use constitutes disposal or burning for energy recovery.

3-3.18 Waste Reduction. See "Waste Minimization."

3-4 Requirements

3-4.1 Pollution Prevention Policy for Federal Agencies

a. EO 12856 requires DoD to conduct its facility management and acquisition activities so that, to the maximum extent practicable, the quantity of toxic chemicals entering any waste stream, including releases to the environment, is reduced as expeditiously as possible through source reduction; that waste that is generated is recycled to the maximum extent practicable; and that any wastes remaining are stored, treated, or disposed of in a manner protective of public health and the environment.

b. By 3 August 1994, DoD is required to develop voluntary goals to reduce their total releases of toxic chemicals to the environment and off-site transfers of such toxic chemicals for treatment and disposal from covered facilities. DoD must achieve a 50 percent reduction by 31 December 1999, using 1994 releases and off-site transfers as a baseline. To the maximum extent practicable, such reductions will be achieved by implementation of source reduction practices.

The baseline amount to which the 50 percent reduction goal applies will be the aggregate amount of toxic chemicals released as reported per reference (e) (see paragraph 3-5.1 and Chapter 4).

By the end of 1995 each DoD covered facility that is not scheduled for operational closure by 31 December 1997 will develop a written Pollution Prevention Plan which sets forth the facility's contribution to the 50 percent goal. DoD will conduct assessments of its facilities, as necessary, to ensure development of such plans, and of the facilities' Pollution Prevention Programs.

c. DoD will establish a plan and goals for eliminating or reducing the unnecessary acquisition of products containing extremely hazardous substances or toxic chemicals. Similarly, DoD will establish a plan and goal for voluntarily reducing its own manufacturing, processing, and use of extremely hazardous substances and toxic chemicals.

By 3 August 1995, DoD will review its standardized documents, including specifications and standards, and identify opportunities to eliminate or reduce its use of extremely hazardous substances and toxic chemicals, consistent with the safety and reliability requirements of its mission.

3-4.2 Environmental Protection Agency (EPA) Pollution Prevention Policy. In 1992, the EPA established an environmental waste management policy based on a hierarchy consisting of:

a. Source Reduction

b. Recycling

c. Treatment

d. Disposal.

In establishing this hierarchy, the EPA further stated that the criteria for selecting the method of waste management depends upon the requirements of the applicable law, the level of risk reduction that can be achieved, and the cost-effectiveness of the option. The hierarchy established that source reduction is always the most desirable option as it addresses reducing the volume and toxicity of pollution versus simply transferring it from one media to another. EPA observed that drawing an absolute line between source reduction and recycling was difficult. Source reduction generally

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includes "in-process recycling" or "reuse," but not "out-of-process recycling."

In summary, EPA looks to pollution prevention as a key to reducing the increasing cost of treatment and cleanup of environmental pollutants.

3-4.3 DoD HM Pollution Prevention. Reference (g) establishes policy, assigns responsibilities, and prescribes procedures for HM pollution prevention.

This directive requires that HM be selected, used, and managed over its life cycle so that DoD incurs the lowest cost required to protect human health and the environment. It establishes the preferred method of doing this as avoiding or reducing the use of HM. Whereas use of HM may not be reasonably avoided, the directive requires users to follow regulations regarding its use and the employment of management practices which avoid harm to human health and the environment. This directive requires emphasis to be placed on using less HM in processes and products, as distinguished from end-of-pipe management of HW.

To implement this policy, the Navy will:

a. Modify functional area efforts, procedures, guidance documents, or common practices to improve the way the pollution prevention is managed.

b. Revise documents, processes, or procedures to facilitate the use of substitutes, where possible.

c. Evaluate pollution prevention decisions by economic analysis techniques that match the magnitude of the decision being made, considering cost factors and intangible factors, as applicable.

d. Begin economic analyses of pollution prevention decisions at the earliest possible stage of the life cycle and modify analyses when better information becomes available.

e. Record, retain, and provide to appropriate authorities, as necessary, information that describes actions taken on pollution prevention issues and the effect of the actions on the conduct of operations.

3-5 Navy Policy

The Navy shall take action to prevent pollution and to decrease the release of pollutants into the environment to amounts achievable.

3-5.1 Pollution Reduction. Navy facilities which meet the threshold reporting requirements of Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (see Chapter 4) and which are not scheduled for operational closure by 31 December 1997 shall take action to reduce the releases of toxic chemicals to the environment and the off-site transfer of such toxic chemicals for treatment and disposal. The Navy goal is to reduce such releases and off-site transfers by at least 50 percent by 31 December 1999.

3-5.2 Pollution Prevention Practices

a. Navy facilities shall reduce the amount of HM used and HW generated by up-front HM control in procurement, supply, and use. This shall be accomplished by:

(1) Developing local mechanisms at shore facilities to identify materials in use that are hazardous and limiting quantities of HM that are procured and stored. Facilities shall establish HM AULs to control the quantity of HM procured and stored.

(2) Establishing methods for substituting less HM or non-HM where possible.

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(3) Developing and incorporating new technology or materials which have a reduced impact upon the environment, are safer and healthier, or result in reduced emissions.

(4) Modifying HM shelf life to reduce the generation of waste as a result of shelf life expiration, when possible.

(5) Modifying units of issue to reduce the generation of waste as a result of unused surplus material.

3-5.3 Training. One of the most effective pollution prevention techniques is to ensure that personnel are properly trained on those job functions which have an environmental impact. Overall environmental training requirements are provided in Chapter 24. Individual chapters of this manual discuss the training necessary to achieve compliance with environmental laws and regulations.

3-5.4 Pollution Prevention Plans. Every facility that is not scheduled for operational closure by 31 December 1997 shall develop and implement a Pollution Prevention Plan. This plan shall address the actions required by the facility for reducing pollution from all sources and to all media, and shall be developed by the end of 1995. Facility Pollution Prevention Plans shall incorporate the following elements:

a. Purpose

b. Policy Statement

c. Applicability and Scope

d. Description of Shore Facility

e. Plan Management and Administrative Elements

f. Planned Process-specific Improvements

g. Priorities

h. Potential Barriers

i. Other Requirements

j. Commanding Officer Approval/Certification

Every Navy facility should already have an HMC&M plan, a hazardous waste minimization (HAZMIN) plan, and a stormwater pollution plan. These plans and any others (i.e. a solid waste management plan and an ozone depleting substances phase-out plan) that a facility may have or may develop shall be either referred to or incorporated into similar Pollution Prevention Plans.

3-6 Responsibilities

3-6.1 The Chief of Naval Operations (CNO (N45)) shall:

a. Implement Navy pollution prevention policy and applicable EO 12856 requirements and/or delegate certain authority to Commander, Naval Supply Systems Command (COMNAVSUPSYSCOM), Commander, Naval Facility Engineering Command (COMNAVFACENGCOM), major claimants, or others.

b. Identify Navy opportunities for pollution prevention and facilitate transfer of pollution prevention technology.

c. Develop guidance for use by facilities in the development of facility Pollution Prevention Plans.

d. Develop and maintain an up-to-date pollution prevention technology transfer data base which can be used by facilities in accomplishment of pollution prevention goals.

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e. Act as the resource sponsor for the development of pollution prevention technology and as the assessment sponsor for accomplishing implementation of pollution prevention efforts at Navy facilities.

3-6.2 COMNAVSUPSYSCOM shall:

a. Assist CNO (N45) in managing the HM aspects of the Navy pollution prevention effort and serve as the overall manager for the supply aspects of the Pollution Prevention Program.

b. Develop, implement, and maintain a Navy-wide system for acquiring only authorized HM, integrating command and shore facility HM AULs.

c. When requested, assist system command program managers by providing life cycle costs for HM being considered for acquired systems.

d. Review HM shelf life policies and determine the validity of shelf lives and/or unit of issue requirements. Review Defense Reutilization and Marketing Service records for HM excess because of shelf life expiration. Initiate appropriate changes to logistic planning factors, units of issue, and shelf life extension practices, as appropriate, to reduce HM excesses.

e. Provide guidance to and coordinate efforts of the Navy-wide HM substitution efforts.

f. Establish methods to reduce/minimize the entry of new HM into the supply system. Prior to the introduction of new HM into the system, a valid requirement for the HM must exist; a complete MSDS must be locally available; and a review must confirm that existing non-hazardous or less hazardous substitutes are not available.

g. Provide Navy guidance for shore facilities on implementing CHRIMP.

h. Provide guidance to facility level supply functions in establishing and managing local shelf life control and management programs. See paragraph 3-5.2.

3-6.3 COMNAVFACENGCOM shall:

a. Support pollution prevention initiatives as tasked by CNO (N45).

b. Assist CNO (N45) in managing the pollution prevention technology transfer data base.

c. Provide technical assistance to shore facilities, as requested, to implement pollution prevention practices and incorporate pollution prevention technology into facility processes.

d. Develop plans for implementing the use of alternative fuel vehicles in Navy vehicle fleets.

3-6.4 Major claimants shall:

a. Ensure that facilities under their command develop and implement Pollution Prevention Plans per the guidance of this chapter.

b. Program, budget, and allocate funds for all facility pollution prevention projects identified in facility Pollution Prevention Plans with payback periods of 3 years or less.

c. Assist COMNAVSUPSYSCOM in developing and maintaining a centralized list of authorized HM and approved, less hazardous substitutes. Ensure that facilities under their cognizance use only that HM which appears on each facility's HM AUL.

d. Develop and implement HM elimination/substitution processes for all systems and operations under their cognizance. These processes shall include the identification, evaluation, and use of the least hazardous material available.

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e. Develop processes which ensure that the least hazardous technically acceptable materials are incorporated into the facility AUL.

f. Establish the contributions of each of their facilities (which meet the threshold reporting requirements of EPCRA Section 313 (see Chapter 4)) for the reduction in releases of toxic chemicals to the environment and the off-site transfer of toxic chemicals for treatment and disposal. Each claimancy shall reduce such releases and off-site transfers by at least 50 percent by the end of calendar year (CY) 1999, using CY 1994 as a baseline.

3-6.5 The Chief of Naval Education and Training shall incorporate pollution prevention practices into Navy training. Source reduction initiatives shall be included into appropriate training courses.

3-6.6 Commanders and commanding officers of shore facilities shall:

a. Develop and implement a facility Pollution Prevention Program that incorporates the HMC&M and hazard communication requirements of reference (i). Guidance for developing facility Pollution Prevention Programs is provided in Appendix G. Guidance for establishing a facility pollution prevention committee is provided in Tab A to Appendix G.

b. Develop and implement a facility Pollution Prevention Plan per paragraph 3-5.4. This plan shall address the actions required by the facility for reducing pollution from all sources and to all media and for meeting the facility's contribution to their major claimant's toxic chemical release reduction requirement. The plan shall also identify, to the major claimant for funding, all projects which have a payback period of less than 3 years and shall identify funding requirements for those projects. The plan shall be developed by the end of 1995.

c. Establish or revise as necessary, and implement, procedures to control, track, and reduce the variety and quantities of HM in use, in storage or stock, or disposed of as HW. Include in those procedures centralized HMC&M operations per the Navy CHRIMP manual.

d. Develop or revise as necessary, and implement, a facility level HM AUL using an inventory that identifies and quantifies HM, including whether the material is an extremely hazardous substance, hazardous substance, or toxic chemical as defined under EPCRA (see Chapter 4).

e. Limit open market purchases of HM to purchases for which a stock numbered product is unavailable from the supply system and for which there is a valid controlling document (e.g., maintenance requirement card (MRC), maintenance requirement plan (MRP), technical manual, technical order, maintenance manual, or similar document). In cases where a standard stock item is deemed inferior, complete information regarding the item shall be provided to the supply officer in order that an HM AUL feedback report can be submitted to document the apparent deficiency.

f. Ensure facility level supply functions establish and implement a local shelf life control and management program. See reference k.

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CHAPTER 4

PROCEDURES FOR IMPLEMENTING THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA)

4-1 Scope

a. This chapter provides Emergency Planning and Community Right-to-Know Act (EPCRA) policies and procedures applicable to all Navy shore activity operations in the customs territory of the United States and Guam.

b. This chapter implements the requirements of Executive Order (EO) 12856 of 3 August 1993, which requires Federal agency compliance with EPCRA. The Navy will fully comply with EPCRA requirements of EO 12856 and all related Navy and Department of Defense (DoD) policy in the customs territory of the United States and Guam. Neither the EO, nor this chapter, impose any requirements directly upon ships. Cognizant shore activities will account in their reporting requirements for hazardous materials transferred to and from Navy ships.

4-1.1 References. Relevant references are:

a. 29 CFR 1910.1200, OSHA Hazard Communication Standard;

b. 40 CFR 261, Identification and Listing of Hazardous Waste;

c. 40 CFR 302, EPA Designation, Reportable Quantities and Notification Requirements for Hazardous Substances under CERCLA;

d. 40 CFR 355, EPA Regulations for Emergency Planning and Notification Under CERCLA;

e. 40 CFR 370, EPA Hazardous Chemical Reporting and Community Right-To-Know Requirements;

f. 40 CFR 372, EPA Toxic Chemical Release Reporting Regulations;

g. 49 CFR 173.2, Shippers - General Requirements for Shipments and Packaging;

h. DoD Directive 4210.15 of 27 July 1989, Hazardous Material Pollution Prevention; (NOTAL)

i. DoD Instruction 6050.5 of 29 October 1989, DoD Hazard Communication Program; (NOTAL)

j. OPNAVINST 4110.2, Hazardous Material Control and Management (HMC&M); (NOTAL)

k. OPNAVINST 5100.23D, Navy Occupational Safety and Health Program Manual (NOTAL).

4-2 Legislation

4-2.1 Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This Act is intended to provide funding and enforcement authority for the clean up of waste disposal sites and for responding to hazardous substance spills. CERCLA establishes a comprehensive response program for past hazardous waste (HW) activities, and the planning and response framework for hazardous substance releases.

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4-2.2 Emergency Planning and Community Right-to-Know Act (EPCRA). This Act, which is Title III of the Superfund Amendments and Reauthorization Act (SARA), is intended to encourage and support emergency planning and to provide timely and comprehensive information to the public about possible or potential hazards associated with toxic chemical releases. Most notably, specific sections of EPCRA require immediate notification of releases of extremely hazardous substances and hazardous substances defined under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) to State and local emergency response planners. EPCRA requires State and local coordination in planning response actions to chemical emergencies. The Act also requires the submission of information on chemical inventories and releases.

4-3 Terms and Definitions

4-3.1 Article. A manufactured item that is formed to a specific shape or design during manufacture and has end use functions dependent in whole or in part upon its shape or design during end use; and which does not release, or otherwise result in exposure to, a toxic chemical, under normal conditions of use.

4-3.2 Authorized Use List (AUL). The list of all hazardous material (HM) necessary to support the requirements of a command, facility, or activity, developed per reference (j).

4-3.3 Covered Facility. All facilities that meet one or more of the threshold reporting requirements under any section of EPCRA.

4-3.4 Extremely Hazardous Substance (EHS). Any substance listed in Appendix A or B of reference (d).

4-3.5 Facility. All buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and that are owned or operated by the same person, otherwise known as the "host" or the "fenceline owner." For the purposes of Section 304 of EPCRA, the term includes motor vehicles, rolling stock, and aircraft.

4-3.6 Hazardous Chemical (HC). A chemical that is a physical or health hazard as defined in reference (a).

4-3.7 Hazardous Material (HM). Any material that is regulated as HM per reference (g), requires a material safety data sheet (MSDS) per reference (a), or which during end use, treatment, handling, packaging, storage, transportation, or disposal, meets or has components, which meet or have the potential to meet, the definition of HW as defined by reference (b) subparts A, B, C, or D. In general, any material, which because of its quantity, concentration, or physical, chemical, or infectious characteristics, may pose a substantial hazard to human health or the environment. Included in this definition are all EHSs, HCs, hazardous substances (HSs), and toxic chemicals.

Any other hazard-specific guidance (instructions or directives) takes precedence over this instruction for control purposes of HM. Such materials include ammunition, weapons, explosives and explosive-actuated devices, propellants, pyrotechnics, chemical and biological warfare materials, medical and pharmaceutical materials, medical waste and infectious materials, bulk fuels, radioactive materials, and other materials such as asbestos and mercury. These materials should also be considered hazardous and personnel exposure may occur incident to manufacture, storage, use, and demilitarization of these items.

4-3.8 Hazardous Substance (HS). Any substance listed in Table 302.4 of reference (c).

4-3.9 Primary Mission. The facility's chief responsibility, including activities integral to the fulfillment of that responsibility.

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4-3.10 Release. Under EPCRA, it includes pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles) of any EHS, CERCLA release, HS or HC.

4-3.11 Reportable Quantity (RQ). The specified amount of any EHS or HS, which when released in excess of that amount to the environment, requires reporting under EPCRA Section 304. RQs are listed in Appendices A and B of reference (d) and Table 302.4 of reference (c). Some States may have more stringent limits set for RQs. All facilities are encouraged to comply with State and local requirements.

4-3.12 Threshold Planning Quantity (TPQ). The established amount of an EHS, which when present on-site at a facility in excess of the threshold limit, requires reporting under EPCRA Section 311. TPQs are listed in Appendices A and B of reference (d).

4-3.13 Toxic Chemical (TC). Any substance listed in reference (f).

4-4 Requirements

4-4.1 EPCRA Policy for Federal Agencies. As of calendar year 1994, all Federal agencies are required to comply with the provisions in Sections 301-303, 304, 311-312, and 313 of EPCRA, all implementing regulations, and future amendments. The effective dates for compliance are:

a. **Beginning 1 January 1994:** Under Section 304, a facility where an EHS or HS is used or stored will provide an immediate verbal and a written follow-up notice as soon as practical of a substance released over a 24-hour period, to any environmental media, that exceeds the established RQ to all State Emergency Response Commissions (SERCs) and all Local Emergency Planning Committees (LEPCs) for areas likely to be affected by the release. This notice does not relieve the facility of any notification requirements covered under other environmental regulations.

Releases that result in exposure to personnel solely within the boundaries of the facility do not require notification to the LEPC or SERC, regardless of whether the RQ for the substance was exceeded.

b. **3 March 1994:** Under Section 302, a facility that has present on-site any EHS in a quantity equal to or greater than the applicable TPQ will provide one-time notification to the SERC and LEPC that the facility is subject to the emergency planning requirements of EPCRA for that substance. Notification must include the facility name, facility point of contact, an alternate point of contact, and phone number. Thereafter, if an EHS becomes present at the facility in excess of its TPQ, or if the EHS list is revised and the facility has present an EHS in excess of the TPQ, the facility will amend the original notification to the SERC and LEPC to include the additional substance within 60 days.

c. **3 August 1994:** Under Section 303, a covered facility will provide any emergency planning information requested by the LEPC, to the extent practical, while taking into consideration national security issues. As a minimum, a facility subject to EPCRA reporting requirements will appoint a facility representative to actively serve on the LEPC.

d. **3 August 1994:** Under Section 311, a facility with any HCs present on-site in an amount equal to, or greater than, 10,000 pounds, or equal to, or greater than, 500 pounds (or 55 gallons) or the applicable TPQ (whichever is less) for an EHS, and requiring an MSDS under the Occupational Safety and Health Act (OSHA), will submit copies of those MSDSs or a list of the HCs grouped by hazard category to the SERC, LEPC, and the local fire department with jurisdiction over the facility.

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e. **1 March 1995**: Under Section 312, a facility meeting Section 311 reporting requirements will submit an annual Emergency and Hazardous Chemical Inventory Form (Tier I or Tier II) for applicable HCs. The 1 March 1995 submission will be for 1994 calendar year inventory. The annual submission is due on 1 March for the previous calendar year.

f. **1 July 1995**: Under Section 313, a facility that has 10 or more full-time employees, and manufactures or processes any listed TC in excess of 25,000 pounds, or that otherwise uses any listed TC in a quantity over 10,000 pounds in a calendar year, is required to submit individual release data, Form R, for each applicable TC. The 1 July 1995 submission will be for 1994 calendar year release data. The annual submission will be 1 July for the previous calendar year.

Federal agencies are required to develop voluntary goals to reduce the agency's total releases of TCs to the environment from covered facilities by 50 percent by 31 December 1999. Baseline information for this goal will be publicly reported 1994 Form R reports. Reductions will be calculated and monitored through future Form R reporting.

4-5 Navy Policy

Navy policy is to comply with all requirements of EPCRA as required by EO 12856. Navy activities should comply with State EPCRA program requirements to the extent that resources allow, and provided such compliance does not interfere with command mission accomplishment or other legal obligations. The Navy shall further take action to use the data generated through EPCRA reporting to prevent pollution by reducing HM use and decreasing the release of toxic chemicals into the environment to the minimum amounts achievable.

4-5.1 Compliance with Federal EPCRA Requirements. The following procedures must be used by all Navy shore activities in the customs territory of the United States and in Guam in complying with EPCRA:

a. All activities shall define the facility fenceline and the primary mission of the facility in support of EPCRA requirements. Interservice Support Agreements (ISAs) shall be updated to reflect the data collection requirements of the tenants to the host.

(1) The facility fenceline is most appropriately defined by Class I property lines with the fenceline owner responsible for all DoD tenants. The fenceline owner, otherwise known as the "host" command, shall file one report for the entire facility for each section of EPCRA requiring a report. Navy activities are not responsible for reporting actions of non-DoD Federal agencies.

(2) The primary mission should be a broad vision of the overall requirements of the installation.

b. All facilities shall determine whether they meet or exceed threshold requirements for an EHS or HS used at the facility. Each Navy facility that exceeds a threshold is subject to the reporting requirements of EPCRA for emergency planning, providing of information, and emergency notification. Host commands shall ensure thresholds are calculated using the entire facility inventory.

(1) Each facility that meets or exceeds a TPQ for an EHS shall notify the SERC and the LEPC and provide a facility point of contact, telephone number, and an alternate point of contact. Notification should have been accomplished by no later than 3 March 1994.

(2) Each covered facility shall request to participate in local emergency planning functions and appoint a facility representative to actively serve on the LEPC. To the extent practicable, each covered facility shall provide any emergency planning information requested

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by the LEPC, while taking into consideration national security issues.

(3) Each facility that releases into any environmental media an EHS or HS in excess of the RQ for that substance shall immediately notify all LEPCs and SERCs in the area likely to be affected by the release of that substance. A written follow-up notification of the release and actions taken shall be submitted as soon as practicable after the release. A standard facility form shall be prepared with approval chain identified to expedite the notification of covered releases. Notification of the release shall also be made to the activity's major claimant in message form, as soon as is practicable after the release has occurred.

Releases that result in exposure to personnel solely within the boundaries of the facility do not require notification to the LEPC or SERC, regardless of whether the RQ for that substance was exceeded.

c. All activities shall determine if they meet or exceed threshold requirements for all HCs they possess that require a MSDS. Each Navy facility that exceeds the threshold is subject to the reporting requirements of EPCRA for community right-to-know provisions. Host commands shall ensure thresholds are calculated using the entire facility inventory.

In general, if the quantity of an HC is present in amounts equal to or greater than 10,000 lbs, it is reportable; and if the substance is an EHS, and the amount present is equal to or greater than 500 lbs (or 55 gallons) or its TPQ, whichever is less. For each reportable HC, facilities shall provide a one-time submission of a copy of the MSDS or a list of reportable HCs, grouped by hazard category, to the LEPC, SERC and the fire department with jurisdiction over the facility. A hard copy MSDS obtained from the Hazardous Material Information System (HMIS) is sufficient; see reference (k) for information on HMIS. The submission to the fire department is to the fire department that would routinely be the first alerted during an emergency. Generally, this would be the Navy fire department located on the installation, however, it may be a non-Navy fire department separate from the facility.

If a list is submitted, it must contain the following information:

(1) A list of the HCs for which a MSDS is required under OSHA regulations, grouped by hazard category. That list need only include those chemicals (either in mixtures or in the pure form) that meet or exceed threshold levels.

(2) The HC listed under all applicable hazard categories.

(3) The chemical and common name of each HC as provided on the MSDS.

Amendments to this submission shall be made within a 3-month period after significant new information is received.

d. Facilities meeting or exceeding HC threshold requirements shall submit Emergency and Hazardous Chemical Inventory Forms for those HCs to the LEPC, SERC, and the local fire department with jurisdiction over the facility annually, by 1 March covering the previous calendar year's inventory. The initial submission shall be not later than 1 March 1995. Facilities may submit either Tier I or Tier II information; however, they are not required to comply with requests to use any form other than the Federal Tier I or Tier II forms.

The SERC and the LEPC have the authority to request a Tier II submission for HCs present at the facility below threshold levels if the requestor provides a written statement of need.

e. All facilities not scheduled for operational closure by 31 December 1997 shall determine if they meet reporting requirements for Toxic Release Inventory (TRI) Reporting, Envi-

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ronmental Protection Agency (EPA) Form R. Each Navy facility that exceeds any of the three thresholds is subject to the EPA Form R reporting requirements. Host commands shall ensure thresholds are calculated using the entire facility inventory. TRI reporting requirements shall be based on the following criteria:

(1) The facility has 10 or more full-time employees; and

(2) The facility manufactured (defined to include imported) or processed a TC in quantities in excess of 25,000 pounds over the course of a calendar year; or

(3) The facility otherwise used a TC in quantities in excess of 10,000 pounds over the course of a calendar year.

These thresholds are TC and activity specific, and do not include storage or the amount present at any one time. The transfer of a TC to or from a Navy ship is not considered to be manufacture, process or otherwise use of a TC. These transfers then, shall not be used to calculate threshold requirements. If the TC has triggered the reporting requirement elsewhere however, transfers shall be counted in the facilities Form R inventory.

Navy facilities shall apply TRI reporting requirements to those activities that support the primary mission of the facility. Certain statutory exemptions are intended to exclude some uses of TCs because the activities are not necessary for the primary mission of the facility and because of the difficulties inherent in tracking small or diffuse quantities of listed chemicals. Three primary categories exist under the exemptions, including use, article, and *de minimis*. In general, the use exemption does not apply to TCs manufactured, processed, or otherwise used in support of the primary mission. The use category has been further clarified to apply to Navy facilities in the following manner:

(1) The structural component use category exempts facilities from reporting the use of TCs as structural components of the facility or to ensure or improve structural integrity. This exemption applies to TCs that are used in or as a result of passive use and includes passive degradation such as corrosion or abrasion, which naturally occurs in buildings, pipes and other structural components. Solvents and other toxic chemicals in paints used to maintain the physical integrity of a facility as well as such structures as port cranes, hangers, barracks, etc. are exempt. TCs that become part of the structure or that comprise an article (e.g. copper piping) are also exempt.

(2) The routine janitorial/facility grounds maintenance category exempts facilities from reporting the use of TCs contained in products for routine janitorial and facility grounds maintenance such as janitorial cleansing supplies, fertilizers, and pesticides similar in type or concentration to consumer products. This exemption does not apply to the use of TCs for maintenance of equipment that supports the primary mission of the facility. For example, facilities do not have to report the use of TCs for lawn maintenance, building maintenance and grounds maintenance. Chlorine used in on-site swimming pools for employee recreational use and chlorine used for treating drinking water is exempt. However, chlorine used for treating swimming pools used solely for training pilots for underwater escape would not be exempt.

(3) The personal use category exempts facilities from reporting the personal use of TCs by employees or other personal. This covers the use of TCs in cafeterias, commissaries, Navy Exchanges, Morale, Welfare and Recreation (MWR) activities or base medical facilities. "Personal use" covers products such as foods, drugs, cosmetics, office supplies, or other personal items that contain TCs and are used for personal comfort, necessity or other personal purposes.

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(4) The motor vehicle category exempts facilities from reporting the use of products containing TCs for maintaining motor vehicles operated by a facility unless such maintenance is related to the primary mission of the facility. Facilities are exempt from reporting the use of TCs associated with the maintenance of motor vehicles such as staff cars, base maintenance and support vehicles, and privately owned vehicles. Facilities are not exempt from reporting the TCs used at the Installation and Depot Level for the maintenance of the facility's primary mission aircraft, rotorcraft, ships and other watercraft, missile or weapons carriers, tanks, self-propelled artillery and tactical wheeled vehicles. Ships in port, as well as those in drydock, and undergoing repair, painting, refueling or off-loading of TCs become part of the reporting process of the cognizant activity. Maintenance below the Installation and Depot Level maintenance is exempt. For example, field or organizational level units are exempt from reporting TCs used in the maintenance of vehicles outside the Installation and Depot Level maintenance shop. Similarly, personnel maintaining ships at sea are exempt from reporting their use of TCs.

The determination of whether the maintenance of a vehicle is exempt is based on whether the vehicle is part of the primary mission of the facility and whether the maintenance is conducted at the Installation and Depot Level. Exemptions are not determined by the mission of the facility. Thus, Installation and Depot Level maintenance shops at facilities whose primary mission is not necessarily vehicle maintenance are not exempt from reporting the maintenance of primary mission vehicles.

(5) The motor vehicle maintenance category applied for fuels, does not exempt facilities from reporting stationary sources of fueling for primary mission vehicles and bulk fuel storage (including movable bulk storage tanks such as PODs). Releases associated with the transfer of fuel and releases from non-stationary sources of fuel are exempt. Emissions from mobile sources are exempt.

(6) The intake water/air category exempts facilities from reporting the use of TCs present in process water or no-contact cooling water as drawn from the environment or from municipal sources. The exemption also covers TCs present in air used either as compressed air or as part of combustion. If air or water qualifies for this exemption, even if the TC is returned with its medium to the environment, the TC remains exempt.

(7) The laboratory activity category applies to those TCs manufactured, processed, or otherwise used in a laboratory for quality control, research and development and other laboratory activities. It is not intended as an exemption for any facility that is a laboratory or that has the word "laboratory" in its title. To qualify, the TCs must be used directly in, or produced as a result of a laboratory activity at a Navy facility and the manufacture, processing or otherwise use must occur under the supervision of a technically qualified individual. Generally, bench-scale activities are considered exempt. Activities that do not directly support research and development, sampling and analysis or quality assurance and control are not exempt. Specialty chemical production and pilot plant scale activities do not qualify for the laboratory activities exemption.

A separate and complete Form R shall be submitted to the Environmental Protection Agency (EPA) and the State for each TC meeting threshold requirements. The Form R shall cover not only the triggering activity, but all activities and uses of the TC at the facility. The initial submission is due by 1 July 1995 for calendar year 1994 releases, and annually thereafter by 1 July covering the previous calendar year releases.

f. Navy facilities scheduled for operational closure under Base Realignment and Closure (BRAC) by 31 December 1997 shall be reported for TRI by their major claimant using an estima-

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tion technique based on a combination of actual TRI data for similar active facilities, the nature of processes carried out at the BRAC facility and other readily available information on TRI chemicals at the facility.

g. Prior to the release of any reports to the LEPC, SERC, non-Navy fire departments, EPA or the State, activities shall review the information to prevent the release of classified information. In cases where information regarding the use of a substance is classified, the activity shall develop alternative procedures for protecting activity and off-site personnel.

h. Navy policy and planning in relation to an accidental release of HS is described in Chapter 10.

4-6 Responsibilities

4-6.1 The Chief of Naval Operations CNO (N45) shall:

a. Implement Navy EPCRA policy.

b. Develop detailed guidance for use by activities in the implementation of EPCRA requirements.

c. Act as the assessment sponsor for accomplishing implementation of EPCRA and pollution prevention efforts at Navy activities.

d. Assign responsibility for the implementation of EPCRA and EO 12856 requirements to CNO (N45) and/or designate certain responsibility to COMNAVSUPSYSCOM, COMNAVFACENGCOM, major claimants, or otherwise.

e. Forward, with an appropriate cover letter signed by a flag officer, the Form Rs obtained from the major claimants for TRI reports for bases under their command closing as a result of BRAC on or before 31 December 1997.

4-6.2 COMNAVFACENGCOM shall provide technical assistance to shore activities, as requested, to implement EPCRA policy at activities.

4-6.3 COMNAVSUPSYSCOM shall:

a. Assist the CNO (N45) in managing the HM aspects of the Navy EPCRA effort and serve as the overall manager for the supply aspects.

b. Provide support, as requested, to identify EPCRA listed chemicals in supplied materials.

c. Develop, implement, and maintain a Navy-wide system for acquiring only authorized HM, integrating command and shore activity HM AULs to support reduced EPCRA reporting.

d. Provide guidance to and coordinate efforts of the Navy-wide HM substitution efforts, including development of a substitution guidance document to support reduced EPCRA reporting.

e. Establish methods to reduce/minimize the entry of new HM into the supply system. Prior to the introduction of new HM into the system, a valid requirement for the HM must exist; a complete MSDS shall be locally available; and a review shall confirm that existing non-hazardous or less hazardous substitutes are not available to support reduced EPCRA reporting (see Chapter 3 for details).

4-6.4 The Chief of Naval Education and Training shall incorporate EPCRA guidance and policies into Navy training. Pollution prevention and source reduction initiatives as applicable to EPCRA requirements shall be included in appropriate training courses.

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4-6.5 Major claimants shall:

a. Program, budget, and allocate funds for all identified activity EPCRA requirements.

b. Assist COMNAVSUPSYSCOM in developing and maintaining a centralized list of authorized HM or the approved, less hazardous substitutes. Ensure that activities under their cognizance use only those HMs that appear on the HM AUL in support of reducing EPCRA reporting requirements.

c. Develop and implement HM elimination/substitution processes for all systems and operations under their cognizance to support the reduction of EPCRA reporting.

d. Develop processes that ensure that the least hazardous, technically acceptable materials are incorporated into the activity AUL to improve EPCRA reporting efforts (see Chapter 3 for details).

e. Compile TRI reports for facilities under their command closing as a result of BRAC on or before 31 December 1997. These reports will be developed through an estimation technique discussed in paragraph 4-5.1e and supplied to CNO (N45) on individual Form Rs for each facility prior to 1 July of the year following the reporting year. The first reporting year will be calendar year (CY) 1994. Facility commanding officers shall not sign the Form Rs. Form Rs will be transmitted to the Environmental Protection Agency by CNO (N45) with an appropriate cover letter.

4-6.6 Commanders and commanding officers of shore activities shall refer to paragraph 4-5 for specific requirements and shall:

a. Define the facility fenceline, including all tenants, and the primary mission of the facility to support EPCRA reporting requirements. Revise and update ISAs to support these requirements.

b. Ensure all thresholds are calculated using the entire facility inventory and all reporting requirements for that facility under EPCRA are met.

c. Ensure all publicly available data has been reviewed to prevent sensitive or classified information from being released. Sign each EPCRA Form R as the validating official.

d. Use data provided from EPCRA reporting in developing a comprehensive Pollution Prevention Plan applicable to the activity (see Chapter 3 for details).

e. Reduce the releases of TCs as identified in the Pollution Prevention Plan to support a reduction in EPCRA reporting requirements.

f. Develop and implement a local HM AUL using an inventory that identifies and quantifies HM, including whether the material is an EHS, HS, or TC.

g. Establish and implement procedures to control, track, and reduce the variety and quantities of HM in use, in storage or stock, or disposed of as HW, to support reduced EPCRA reporting.

h. Identify funding needed to the major claimant to support all EPCRA requirements.

4-6.7 Regional Environmental Coordinators (RECs) shall:

a. Coordinate with regulators, covered facilities, and CNO.

b. Disseminate policy and guidance information to covered facilities.

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CHAPTER 5

CLEAN AIR ASHORE

5-1 Scope

This chapter is applicable to air emissions from stationary, mobile and area sources at all shore facilities within the United States, Commonwealth of Puerto Rico, Virgin Islands, Guam, American Samoa, and Commonwealth of the Northern Marianas Islands. Navy policy with respect to installations in foreign countries is provided in Chapter 18.

Refer to Chapter 6 for management of ozone depleting substances. Requirements for the control of air emissions from ships are discussed in Chapter 19.

5-1.1 References. Relevant references are:

a. 29 CFR 1910.119, Process Safety Management of Hazardous Chemicals;

b. 40 CFR, Parts 9-88, Environmental Protection Agency (EPA) Air Programs Regulations;

c. 40 CFR Part 372, EPA Toxic Chemical Release Reporting Regulations;

d. 41 CFR Subchapter H, Parts 41-47 GSA Disposal Regulations;

e. 48 CFR Chapter 1, Federal Acquisition Regulation;

f. DoD Directive 4210.15 of 27 July, 1989, Hazardous Material Pollution Prevention; (NOTAL)

g. DoD Directive 4140.1 of 4 January 1993, Materiel Management Policy; (NOTAL)

h. DoD Directive 4170.10 of 8 August 1991, Energy Management Policy; (NOTAL)

i. DoD Directive 5410.12 of 22 December 1987, Economic Adjustment Assistance to Defense-Impacted Communities; (NOTAL)

j. OPNAVINST 5100.23D, Navy Occupational Safety and Health (NAVOSH) Program Manual; (NOTAL)

k. U.S. Navy Program and Implementation Plan for the Clean Air Act Amendments of 1990 (NOTAL).

5-2 Legislation

5-2.1 Clean Air Act (CAA). The CAA established national ambient air quality standards (NAAQS) in order to protect the health and general welfare of the public. Achieving these standards is the responsibility of the States which must develop State implementation plans (SIPs) that outline to Environmental Protection Agency (EPA) how each State will achieve and maintain the NAAQS. SIPs implement pollution control programs such as new source performance standards (NSPS), new source review (NSR), and national emission standards for hazardous air pollutants (NESHAPs) at the State and local level. States may require pollution control and prevention measures which are more stringent than those mandated by EPA, but may under no circumstances allow measures which are less stringent. Federal agencies must comply with the requirements of Federal, State, interstate, and local air pollution control regulations.

The 1990 Amendments to the CAA introduced sweeping changes to the legislation. In order to improve air quality nationwide, the 1990

Amendments mandate the implementation of more stringent pollution control and prevention measures which include: reclassification of nonattainment areas, regulation of mobile sources, regulation of 189 hazardous air pollutants, regulation of SO_2 and NO_x for acid deposition control, implementation of an extensive operating permit program, and strengthening of the powers which allow EPA and State agencies to better enforce the provisions of the CAA.

5-2.2 Emergency Planning and Community Right to Know Act (EPCRA) of 1986. This Act, also known as Title III of the Superfund Amendments and Reauthorization Act (SARA), in addition to the CAA, addresses releases of hazardous substances (HS) to the environment. EPCRA calls for reporting releases of certain extremely hazardous substances (EHS) to the environment. Certain chemicals subject to the hazardous air pollutants (HAPs) and risk management provisions of CAA Section 112 are also subject to Title III. See Chapters 4 and 12 for detailed requirements.

5-2.3 The Alternative Motor Fuels Act of 1988 (AMFA). AMFA was passed by Congress in 1988 to achieve long-term energy security and improve air quality. Under AMFA, a portion of the new vehicles which the Federal government acquires each year must be alternative fuel vehicles (AFVs), in order to encourage the production of these vehicles for consumer use.

5-2.4 The Energy Policy Act of 1992 (EPACT). EPACT seeks to enhance the long-term energy security of the nation by reducing dependency on imported oil and providing for improved energy efficiency. EPACT establishes a Federal leadership strategy designed to encourage automobile manufacturers and fuel suppliers to expand the commercial availability of alternative fuels and vehicles. Under EPACT, Federal agencies are required to acquire increasing numbers of AFVs.

5-2.5 Toxic Substances Control Act (TSCA). The TSCA, Indoor Radon Abatement Section, requires Federal departments to conduct a study of radon levels in Federal buildings and to provide results of the study to the EPA. The EPA has submitted a consolidated report on radon levels in Federal buildings to Congress. Congress is presently considering new legislation for Federal departments as part of a comprehensive radon abatement program.

5-3 Terms and Definitions

5-3.1 Acid Rain. The acidic precipitation formed by the atmospheric chemical transformation of sulfur dioxide (SO_2) and oxides of nitrogen (NO_x) emissions.

5-3.2 Air Pollution Emergency Episodes. Air pollution emergency episodes exist when the accumulation of air pollutants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a substantial threat to the health of individuals.

5-3.3 Alternative Fuels. Alternative fuels are substitutes for traditional petroleum products such as gasoline and diesel fuel. EPACT defines alternative fuels to mean: methanol, denatured ethanol and other alcohols; mixtures containing 85 percent (but not less than 70 percent) alcohol with the balance consisting of gasoline or other such fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived fuels; fuels derived from biological materials; electricity; and other substantially non-petroleum based fuels.

5-3.4 Best Available Control Measures (BACM). BACM are emission control measures which achieve the greatest possible reduction in the emission of particulate matter.

5-3.5 Best Available Control Technology (BACT). Emission control technology to be applied to new sources which are located in areas that are in attainment of the NAAQS for the pollutants emitted from the new source. States are to apply BACT on a case-by-case basis, taking into account economic considerations. BACT

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must be at least as stringent as the NSPS for similar facilities.

5-3.6 Clean Fuels. Any fuel such as alcohol, or fuel blends containing 85 percent alcohol with gasoline or diesel; natural gas; liquefied petroleum gas; hydrogen; reformulated gasoline and diesel; hydrogen; or power source, including electricity, which meets the clean fuel requirements and emission standards of the CAA.

5-3.7 Control Techniques Guidelines (CTG). CTGs are documents published by EPA designed to assist the States/localities in selecting the most appropriate technologies to apply for the control of major sources of air pollution.

5-3.8 Covered Fleet. Under the CAA, a covered fleet means 10 or more motor vehicles under common control which are capable of being centrally fueled and are located in a metropolitan statistical area with a population greater than 250,000.

5-3.9 Federal Implementation Plan (FIP). A Federally-imposed air quality plan which supersedes a SIP due to a State's failure to develop an adequate plan to achieve and maintain the NAAQS.

5-3.10 Lowest Achievable Emission Rate (LAER). LAER is that rate of emissions which reflects the most stringent emission limitation contained in the implementation plan of any State for such class or category of source, or the most stringent emission limitation achieved in practice by such class or category of source, whichever is more stringent. The application of LAER shall not permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable NSPS.

5-3.11 Major Source. A major source is any source capable of emitting more than a threshold amount of a particular criteria pollutant per year. The threshold amounts vary according to the attainment classification of the area in which the source is located and the pollutant (or pollutants).

5-3.12 Maximum Achievable Control Technology (MACT). MACT is emissions control technology which achieves the maximum emission reduction possible. MACT is applicable only to those pollutants listed as Hazardous Air Pollutants (HAPs) under Section 112 of the CAA.

5-3.13 Motor Vehicle. The term motor vehicle means any self-propelled vehicle designed for transporting persons or property on a street or highway.

5-3.14 National Ambient Air Quality Standards (NAAQS). Air quality standards which EPA has established for six criteria pollutants in order to provide an adequate margin of safety in protecting the general health and welfare of the public. Criteria pollutants include: ozone (O_3), carbon monoxide (CO), particulate matter 10 microns or smaller (PM-10), sulfur dioxide (SO_2), nitrogen dioxide (NO_2), and lead (Pb).

5-3.15 New Source Performance Standards (NSPS). National emission standards which limit the amount of pollution allowed from new or modified sources.

5-3.16 New Source Review (NSR). State program for reviewing major sources and modifications prior to construction in nonattainment or Prevention of Significant Deterioration (PSD) program areas.

5-3.17 Nonattainment Area. An area which fails to meet the NAAQS for one or more of the criteria pollutants.

5-3.18 Non-road Engine. The term non-road engine means an internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards for stationary internal combustion engines, or emission standards for new motor vehicles or new motor vehicle engines.

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5-3.19 Non-road Vehicle. The term non-road vehicle means a vehicle that is powered by a non-road engine and that is not a motor vehicle or a vehicle used solely for competition.

5-3.20 Offsets. Offsets are emission reductions obtained from one source in order to compensate for increased emissions from another.

5-3.21 Title V Operating Permit. A Federally enforceable document issued by the States to significant stationary sources of air pollution which define emission standards, operational procedures, and all obligations of the source under the CAA.

5-3.22 Oxygenated Gasoline. Gasoline which is blended with any one of a number of additives in order to increase the oxygen content, resulting in a more complete combustion and reduced emissions.

5-3.23 Ozone. The major constituent of "smog," ozone is formed when volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) react in sunlight. The atmosphere has two distinct layers of ozone. For air quality purposes, interest rests in the formation and transport of ground level ozone. At ground level, ozone has been shown to adversely affect the respiratory system and has proven to be the primary criteria pollutant which has caused regions to be declared in nonattainment of the NAAQS. At altitudes above 7 miles, stratospheric ozone plays a vital role in blocking out dangerous ultraviolet radiation. It is in this layer that recent evidence of a decline in ozone levels has resulted in a world-wide call for the banning of ozone depleting substances (see Chapter 6).

5-3.24 Ozone Depleting Substances. Any chemical which is listed as a Class I or Class II substance in Section 602 of the CAA (see Chapter 6, Tables 6-1 and 6-2 for a list of Class I and Class II substances).

5-3.25 PM-10. PM-10 is that portion of the total suspended particulate matter with an aerodynamic diameter of 10 microns or less. It is medically accepted that 10 microns is the threshold at which a particle becomes respirable and is capable of eluding the body's defensive mechanisms to impact directly upon the lung.

5-3.26 Prevention of Significant Deterioration (PSD) Program. Emission control program which affects those areas with air quality which meets or exceeds the NAAQS.

5-3.27 Radon. A colorless, odorless, radioactive gas formed by the decay of radium. Radon can be found in soils, rocks, some groundwater supplies, and can seep into buildings.

5-3.28 Reasonably Available Control Technology (RACT). RACT is emissions control technology which achieves the lowest possible emissions level given technological and economic considerations. RACT is usually applied to existing stationary sources in nonattainment areas and often involves the installation of new control equipment on older sources.

5-3.29 Reformulated Gasoline. Gasoline which has undergone special distillation processes in order to meet performance requirements for NO_x emissions, oxygen content, benzene, heavy metals, volatile organic compounds, and toxic air pollutants.

5-3.30 State Implementation Plan (SIP). A plan developed by each State to implement, maintain, and enforce the NAAQS within that State.

5-3.31 Stationary Source. Generally, any source of an air pollutant except those emissions resulting directly from an internal combustion engine for transportation purposes or from a non-road engine or non-road vehicle as defined in Section 216 of the CAA.

5-3.32 Volatile Organic Compounds (VOCs). A VOC (a subset of the group of substances called hydrocarbons) is a photochemically reactive organic compound which evaporates readily under

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normal temperature and pressure conditions. As a result of the tendency to evaporate readily, VOCs are primary contributors to the formation of ground level ozone.

5-4 Requirements

5-4.1 Regulatory Scheme. EPA has designated all areas in the country as either being unclassifiable, attainment, or nonattainment with respect to the NAAQS. Areas are designated as follows:

a. **Unclassifiable.** Any area that cannot be classified on the basis of available information as meeting or not meeting the NAAQS for the pollutant.

b. **Attainment.** Any area that meets the NAAQS for the pollutant.

c. **Nonattainment.** Any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the NAAQS for the pollutant.

Certain regulatory requirements are considered fundamental and apply to all areas, regardless of their attainment status, while other more specific and stringent requirements are demanded of nonattainment areas. For help in determining attainment designations, contact the State or local air pollution control office, or the appropriate EPA Regional Office (see Appendix C).

States have the primary responsibility for implementing the CAA goals. Each State must develop a SIP which outlines the State's strategy for achievement and maintenance of the NAAQS. EPA maintains strong oversight in this process.

5-4.2 General Requirements

5-4.2.1 Conformity Rule

a. **Prohibition.** Section 176(c) of the CAA prohibits any Federal agency from engaging in, supporting, providing financial assistance for, licensing, permitting, or approving any activity which does not conform to an applicable SIP or Federal Implementation Plan (FIP). EPA has issued criteria and procedures for determining conformity, found in reference (b). A Federal agency must make a determination that a Federal action conforms to the SIP or FIP before the action is taken. Conformity determinations will typically be done as part of the National Environmental Policy Act (NEPA) analysis and documentation procedures for the planned action (See NEPA Procedures in Chapter 2).

b. **SIP Revision.** Each State must submit to the EPA a SIP revision incorporating the criteria and procedures for assessing conformity of Federal actions consistent with the EPA rules by 1 November 1994 (12 months after issuance of the final EPA rule). SIP conformity criteria and procedures may be more stringent than the EPA rules if the State adopts conformity requirements that are equally applicable to all non-governmental sources.

5-4.2.2 Enforcement/Citizen Suit Provisions.

a. **Waiver of Sovereign Immunity.** The broad waiver of sovereign immunity in the CAA subjects Federal facilities to all Federal, interstate, State, and local air pollution requirements. These CAA requirements are generally enforced by the State or local air district; however, EPA also has enforcement authority for most CAA violations. Methods of enforcement include compliance orders, field citations, administrative assessment of civil penalties, civil judicial enforcement, and criminal enforcement. The CAA provides for penalties of up to $25,000 per day for each violation.

b. **State Civil Penalties.** Although Federal facilities are clearly subject to all Federal, interstate, State and local air pollution requirements, the law is less clear as to whether Federal facilities must pay State assessed penalties. All assessments of civil or administrative penalties by State or local air districts should be reported to the Regional

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Environmental Coordinator (REC) and referred up the Office of General Counsel Chain of Command to the Office of the Assistant General Counsel (Installations and Environment) (OAGC(I&E)). For practical reasons, penalties under $500.00 imposed for violations of opacity standards may be negotiated and paid as enforcement costs without referral, although they too should be reported to the REC.

c. **Citizen Suits.** Civil actions may be brought against any person (including the United States) for present or past (if repeated) CAA violations.

Penalties collected are deposited in a special U.S. Treasury fund to be used by EPA to finance air compliance and enforcement activities, or, at the Court's discretion, such funds can be used in beneficial mitigation projects consistent with the CAA and which enhance public health or the environment. The Court will ask EPA's view on any such projects. Amounts are not to exceed $100,000.

5-4.3 Provisions For Stationary Sources. In addition to compliance with the general requirements outlined above, additional standards are applicable to stationary sources only.

5-4.3.1 Title V Operating Permits. Title V of the CAA created an operating permit program to be developed and implemented by the States per EPA regulations establishing minimum requirements for State programs. The States are responsible for implementing and enforcing the permit program; however, EPA retains significant authority to oversee State implementation. EPA must review and approve State permit programs, review proposed permits, veto improper permits, and if a State fails to adopt or implement an approved program, EPA will develop and implement a Federal permit program. The permit program attempts to clarify, in a single document, all the requirements applicable to a source, including requirements from the SIP, the acid rain program, and the air toxics program. The permit program also includes a requirement for payment of permit fees to finance the State air progcams. After the effective date of any permit program approved under Title V, it will be unlawful to violate any requirement of such a permit, or to operate a source subject to the permit program, except in compliance with a Title V permit. The program applies to all stationary sources of air pollution, including those operated on Federal facilities, which are subject to Federal regulation under the CAA.

a. **Permit Application.** Applications must be "timely" and "complete." An application is "timely" if it is submitted within 1 year of either the date of State program approval or of commencing operations for sources required to obtain preconstruction permits under the CAA Title I parts C or D. States must establish specific criteria to define a "complete" permit application.

An "application shield" is created if a timely and complete application is filed, allowing the source to operate without a permit pending the State's action on the permit.

b. **Certification.** Permit applications must be certified as to their truth, accuracy and completeness by a responsible official after making reasonable inquiry. The certification must include the compliance status of the facility, and the method used to determine the compliance status.

5-4.3.2 Hazardous Air Pollutants (HAPs). Section 112 of the CAA lists an initial 189 pollutants as being hazardous and subject to regulation and details Federal requirements for the control of hazardous air pollutants. EPA retains the option of revising the list periodically as necessary.

a. **Source Definitions**

(1) **Major Source.** For HAPs, a major source is defined as being any stationary source, or group of stationary sources located within a contiguous area and under common control, which emits, or has the potential to emit, 10 tons per

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year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants.

(2) **Area Source.** For HAPs, an area source is defined to mean any stationary source of hazardous air pollutants that is not a major source. The term does not include motor vehicles or non-road vehicles.

b. **Source Categories.** Major and area sources are grouped into categories and subcategories. Regulations establishing emission standards for the source categories and subcategories must be issued according to a phased-in schedule, with 25 percent of all categories and subcategories having standards by 1994, 50 percent having standards 1997, and 100 percent by 2000.

c. **Emission Standards.** EPA is required to establish technology-based emission standards that achieve the maximum degree of emissions reduction possible for new and existing sources in the appropriate category while giving consideration to cost, non-air quality health and environmental impacts, and energy requirements. Measures to achieve the desired emissions standards include: implementation of process changes; material substitutions; and measures to treat or control emissions, generally through the application of MACT.

EPA must also develop and issue health-based standards within 8 years after technology-based standards have been issued. These health-based standards must provide an ample margin of safety to protect public health unless a more stringent standard is needed to protect the environment from an adverse effect.

d. **Accidental Releases/Risk Management Plans.** Owners and operators of stationary sources which manufacture, process, use, handle or store EPA-regulated substances which exceed specified thresholds are required by the CAA to identify hazards from releases of such substances and to design and maintain a safe facility to prevent releases and to minimize the consequences of any accidental releases. Risk Management Plans are required for facilities that exceed the threshold limits. A list of these chemicals and their thresholds was issued in reference (b).

e. **Solid Waste Combustion.** Section 129 of the CAA directs EPA to establish NSPS for new solid waste incinerators and to develop performance guidelines for existing units. This includes municipal waste combustors, infectious waste incinerators, and industrial waste incinerators. Section 129 also requires incinerator emissions monitoring and for training and certification programs.

5-4.3.3 Attainment Areas. The CAA mandates that emission limits and other measures be implemented for prevention of significant deterioration (PSD) of air quality in those areas designated as being in attainment of the NAAQS. Facilities located in attainment areas must obtain a permit before any new construction or modification begins. The PSD permit application must include BACT review and selection, a growth-related impact analysis, ambient air quality analysis, and other information relative to preserving air quality.

5-4.4 Provisions For Mobile Sources

5-4.4.1 Aircraft. The CAA authorizes EPA, in consultation with the Secretary of Transportation, to develop emission standards applicable to the emission of any air pollutant from any class or classes of aircraft engines. No State or local air quality region may adopt or attempt to enforce any standard respecting emission of any air pollutant from any aircraft or engine unless such standard is identical to a standard applicable to such aircraft as developed by EPA and the Secretary of Transportation. While limited regulation of emissions from aircraft engines is possible, such regulation applies only to uninstalled aircraft engines (see 5-4.6.1).

5-4.4.2 Non-road Engines. An EPA-conducted study of non-road engine and vehicle emissions

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was published in November, 1991. On the basis of this study, EPA initiated rulemaking to establish national standards for certain categories of non-road engines. By December 1996, EPA will decide whether or not to develop restrictions for large spark ignition engines and small compression ignition engines.

5-4.4.3 Vehicle Inspection and Maintenance (I/M). Vehicle emissions testing is required in certain nonattainment areas. Federal installations in these areas are required to demonstrate compliance with State I/M programs for all motor vehicles operated on the installation even if the vehicle is not registered in that state. This requirement applies to all employee, military, contractor and Federally-owned/leased vehicles operated more than 60 days per year on Federal installations. Military tactical vehicles are exempt from the I/M program.

5-4.4.4 Fuels

a. **Leaded Gasoline.** All facilities in the U.S. that dispense fuel for vehicles with catalytic converters will be equipped to dispense unleaded gasoline to such vehicles. It is strictly prohibited to knowingly dispense leaded gasoline into vehicles with catalytic converters or in any vehicle labeled for unleaded gasoline. After 1995 the production or sale of leaded gasoline or lead additives will be prohibited.

b. **Oxygenated Gasoline.** States which include all or part of an area designated nonattainment for CO and having a design value of 9.5 ppm or higher are required to include in their SIP a provision for the sale and dispensing of oxygenated gasoline in metropolitan areas within the nonattainment area. This provision is to be in effect during high CO portions of the year as determined by EPA. EPA may waive the requirement for oxygenated fuel if a State can satisfactorily demonstrate that imposition of such a provision interferes with the attainment of any other NAAQS.

c. **Reformulated Gasoline.** The nine worst ozone nonattainment areas with a 1980 population greater than 250,000 are required to implement the use of reformulated gasoline beginning in 1995.

Other nonattainment areas may petition to opt-in to the reformulated gasoline program; however, if domestic supplies are found to be inadequate, EPA may delay by up to 3 years the extension of the program into these areas.

d. **Volatility.** To address the substantial release of VOCs into the atmosphere by volatilization of fuel, Federal guidelines limit the volatility of gasoline marketed during the high ozone season in the continental U.S. (CONUS).

e. **Diesel Fuel Sulfur Content.** Effective October 1, 1993, diesel fuel used in motor vehicles must not exceed a sulfur content of 0.05 percent by weight, or fail to meet a minimum cetane index of 40.

5-4.4.5 Clean Fuel Fleet/Alternative Fuel Vehicles. The CAA identifies owners/operators of centrally fueled fleets of 10 or more vehicles located in serious or above ozone and serious carbon monoxide nonattainment areas, with a 1980 Census population of 250,000 or more, as being impacted by the clean fuel vehicle requirements. Beginning with model year 1998, 30 percent of new light-duty fleet vehicle acquisitions must be clean fuel vehicles; in model year 1999 that percentage increases to 50 percent, while after the year 2000, it must equal at least 70 percent.

The CAA mandates that any Federal facility which dispenses clean alternative fuels to Federal fleet vehicles shall offer for sale to the public such fuel during reasonable business hours, subject to national security concerns and the commercial availability of such fuels in the vicinity of the facility.

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5-4.5 Additional Requirements for Nonattainment Areas

5-4.5.1 Ozone

a. **Marginal Nonattainment Areas.** Those areas classified as marginal nonattainment for ozone must institute the following provisions:

(1) The application of NSR requirements to major NO_x sources.

(2) The completion of an emissions inventory from all sources, to be updated every 3 years.

(3) The application of RACT requirements which were in effect prior to enactment of the CAA.

(4) A construction and operating permit program for new and modified sources.

(5) An emissions statement for stationary sources of VOCs and NO_x.

(6) An offset program which requires that each new or modified major source of VOCs or NO_x be offset by the ratio of 1.1 to 1.

In marginal nonattainment areas, a major source is defined as one which emits, or has the potential to emit, 100 tons per year (tpy) or more of VOCs or NO_x.

b. **Moderate Nonattainment Areas.** In addition to meeting the requirements of marginal areas, moderate nonattainment areas must also:

(1) Show reasonable further progress towards attainment through a 15 percent reduction in VOCs from the baseline by 1996.

(2) Apply RACT to all major stationary VOC and NO_x sources.

(3) Require Stage II vapor recovery systems for all facilities which distribute more than 10,000 gallons of gasoline per month or 50,000 gallons per month for independent small business marketers. Requirements for installation and operation of Stage II controls are effective for new facilities (built after enactment) within 6 months after a rule requiring Stage II controls is adopted in the State where the facility is located; within 1 year after adoption for existing facilities with 100,000 gallons or greater capacity (average monthly sales for 2 years prior to rule adoption date); or within 2 years for all other facilities.

(4) Initiate a basic vehicle I/M program.

(5) Have an offset program which requires each new or modified major source of VOCs or NO_x to be offset by the ratio of 1.15 to 1.

In moderate nonattainment areas, a major source is defined as one which emits, or has the potential to emit, 100 tpy or more of VOCs or NO_x.

c. **Serious Nonattainment Areas.** In addition to meeting the requirements of moderate nonattainment areas, serious nonattainment areas must also:

(1) Operate an enhanced ambient monitoring program for NO_x, O_3, and VOCs.

(2) Demonstrate that required provisions will lead to attainment through the use of computer modeling.

(3) Show reasonable further progress towards attainment through a 15 percent reduction in VOCs from the baseline by 1996, plus an additional 3 percent per year averaged over each consecutive 3 year period until attainment.

(4) Institute an enhanced vehicle I/M program to be enforced through denial of vehicle registration.

(5) Establish a clean-fuel fleet program in those areas having a 1980 census population of 200,000 or more.

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(6) Have an offset program which requires each new or modified major source of VOCs or NO_x to be offset by the ratio of at least 1.2 to 1.

In serious nonattainment areas, a major source is defined as one which emits, or has the potential to emit, 50 tpy or more of VOCs or NO_x.

d. **Severe Nonattainment Areas.** In addition to meeting the requirements of serious nonattainment areas, severe nonattainment areas must also:

(1) Identify and adopt enforceable transportation control measures to offset growth in vehicle miles traveled, and require employers of 100 or more persons to increase average vehicle occupancy by 25 percent.

(2) Have an offset program which requires each new or modified major source of VOCs or NO_x to be offset by the ratio of at least 1.3 to 1.

(3) Submit to EPA by December 31, 2000, a plan detailing enforcement provisions.

In severe nonattainment areas, a major source is defined as one which emits, or has the potential to emit, 25 tpy or more of VOCs or NO_x.

e. **Extreme Nonattainment Areas.** In addition to meeting the requirements of severe nonattainment areas, States with extreme nonattainment areas must also:

(1) Have an offset program which requires each new or modified major source of VOCs or NO_x to be offset by the ratio of at least 1.5 to 1.

(2) Obtain an internal offset of emissions of at least 1.3 to 1 for modifications of major stationary sources that are subject to NSR.

(3) Develop a plan which requires existing, new, or modified electric utility and industrial and commercial boilers emitting more than 25 tpy NO_x, burn as their primary fuel natural gas, methanol, ethanol or other clean fuel or use advanced technology to control NO_x emissions.

In extreme nonattainment areas, a major source is defined as one which emits, or has the potential to emit, 10 tpy or more of VOCs or NO_x.

5-4.5.2 Carbon Monoxide (CO)

a. **Moderate Nonattainment Areas.** Areas designated moderate nonattainment have a design value between 9.1 and 16.4 parts per million (ppm). Moderate nonattainment areas must:

(1) Submit an accurate inventory of all emission sources and update the inventory every 3 years until attainment of the NAAQS is achieved.

(2) Provide and update annually a forecast of vehicle miles traveled if the design value is 12.7 ppm or greater.

(3) Institute a vehicle I/M program with requirements equivalent to those for marginal ozone nonattainment areas, except that the program applies to CO. For those areas with a design value greater than 12.7 ppm, the requirements are the same as the enhanced I/M program required of serious ozone nonattainment areas, except that the program applies to CO.

(4) Institute a clean-fuel fleet program as is required in serious or above ozone nonattainment areas if the design value is 16 ppm or greater.

(5) Demonstrate attainment of the CO standard if the design value is greater than 12.7 ppm. Such a demonstration must incorporate specific annual emission reductions necessary to achieve attainment.

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(6) Require those areas with a design value of 9.5 ppm or above to dispense oxygenated fuel during high CO portions of the year.

b. **Serious Nonattainment Areas.** Serious nonattainment areas have a design value of 16.5 ppm and above. In addition to all the requirements of moderate CO nonattainment areas with a design value of 12.7 ppm or higher, serious CO nonattainment areas must also require:

(1) The transportation control measures which apply to severe ozone nonattainment areas, except that CO is targeted.

(2) A serious CO nonattainment area which fails to attain compliance with the NAAQS by the specified attainment date must implement an economic incentive program to encourage emissions reductions of 5 percent per year until attainment.

In those serious nonattainment areas where stationary sources are believed to contribute substantially to ambient CO levels, a major source of CO is considered to be a source which has the potential to emit 50 tons per year of CO pollution.

c. **Multi-State CO Nonattainment Areas.** A multi-State CO area exists if a CO nonattainment area is part of more than one State. In such an interstate situation, each of the affected States is required to coordinate the revision and implementation of the CO SIPs as they apply to the affected areas.

5-4.5.3 PM-10. Areas designated as nonattainment for PM-10 are initially classified as moderate nonattainment areas; any area that fails to attain by the specified attainment date is reclassified as serious. In addition, if EPA makes a determination that moderate nonattainment areas are unable to practicably achieve the NAAQS by the specified attainment date, they will be reclassified as serious nonattainment areas.

a. **Moderate Nonattainment Areas.** For areas designated as moderate nonattainment after enactment of the CAA, attainment must be achieved as quickly as possible, but no later than 6 years after being classified as nonattainment. Extensions of attainment dates are possible if implementation requirements have been met and performance standards have been achieved. Provisions to ensure attainment include:

(1) A construction and operating permit program for new and modified stationary PM-10 sources.

(2) A demonstration that attainment by the attainment date is either achievable or not achievable, including the use of computer modeling.

(3) The use of reasonably available control measures (RACM), including RACT, by December 10, 1993, or within 4 years of an area being classified as moderate nonattainment.

b. **Serious Nonattainment Areas.** In serious nonattainment areas, a major source of PM-10 is defined as any stationary source or group of stationary sources located in a contiguous area and under common control which emits, or has the potential to emit, 70 tons per year of PM-10. All of the requirements that apply to moderate nonattainment areas also apply to serious nonattainment areas. In addition:

(1) The use of BACM is to occur within 4 years of an area being classified as serious nonattainment.

(2) Demonstration of attainment (or demonstration of the impracticability of attainment for those areas seeking an extension) must be submitted within 4 years of designation to serious. Those areas designated as serious due to a failure to attain the NAAQS are required to submit a demonstration proving attainment within 18 months of such designation. Provisions outlining the BACM to be employed are also required within 18 months.

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(3) If a serious PM-10 nonattainment area fails to attain the NAAQS it must submit a demonstration of attainment which provides for an annual reduction of PM-10 emissions of at least 5 percent in the area, based upon the most recent emissions inventory. All attainment demonstrations must include quantitative milestones which demonstrate how reasonable further progress is to be achieved. Milestones must be achieved every 3 years until attainment is reached.

(4) EPA may waive any requirements for a serious PM-10 nonattainment area if it is determined that man-made sources do not significantly contribute to ambient PM-10 concentrations. Likewise, attainment dates may be waived if it is determined that sources which are not man-made contribute significantly to the violation of the NAAQS.

(5) Control measures for major stationary sources of PM-10 also apply to sources of PM-10 precursors, except where EPA has determined that such sources do not contribute to the elevated PM-10 concentrations observed in an area.

5-4.6 Miscellaneous Provisions

5-4.6.1 Jet Engine Test Cells. Emissions from aircraft engine test cells are targeted for control under the CAA. Under the CAA, NO_x emissions from test cells are to be studied jointly by Department of Defense (DoD), Department of Transportation (DOT), and EPA. Following the completion of the study, States may choose to adopt or enforce any standard for NO_x emissions from aircraft engine test cells "only after issuing a public notice stating whether such standards are in accordance with the findings of the study."

5-4.6.2 Federal Implementation Plans (FIPs). Section 110(c) of the CAA requires EPA to issue a FIP where a State has failed to make a required SIP submission, where the SIP submission does not satisfy the minimum criteria, or where a SIP submission has been disapproved in whole or in part and the State has not corrected the deficiency in a timely manner. Typically a SIP is disapproved because it does not contain sufficiently strict requirements to demonstrate attainment. A FIP will generally contain requirements that apply to more types of sources and that control emissions in a more stringent manner than did the SIP.

5-4.6.3 Emission Reduction Credits (ERCs). Sections 110(a)(2)(A) and 172(c)(6) of the CAA authorize States, or their local air quality districts (AQDs), to establish, by regulation, a trading system for ERCs. ERCs are created when equipment that emits pollutants is removed from service or emissions from equipment remaining in service are reduced, where the emission reductions would not otherwise be required by the CAA or a current SIP, and the owner applies under the AQD regulations for credit for the reduction. Each ERC constitutes permission from the AQD to emit a stated amount of a specific air pollutant. Following validation by the AQD, ERCs may be transferred by sale, lease or other disposal method, for use by other emission sources within the same air quality districts.

5-4.6.4 Exemptions for Certain Territories. Upon petition by the Governor of Guam, American Samoa, the Virgin Islands, or the Commonwealth of the Northern Marianas Islands, the Administrator of EPA may exempt any person or source in such territory from any CAA requirement other than those provisions concerning hazardous air pollutants or implementation plans for the achievement of the NAAQS. Such exemptions may be granted based on the finding that compliance is not feasible or is unreasonable due to unique geographical, meteorological, or economic factors.

5-4.6.5 Federal Contractor Restrictions. No Federal agency may enter into a contract with any person who is convicted of a criminal offense under the CAA. This restriction applies to the procurement of goods, materials, and services to perform such contract at any facility which gave

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rise to such conviction if such facility is owned, leased, or supervised by such person.

5-4.6.6 Acid Rain. In order to reduce the detrimental environmental effects of acid rain, the CAA mandates large-scale reductions in the emissions of SO_2 and NO_x through an innovative market-based approach aimed at electric utility plants. The goal of Title IV is to reduce SO_2 emissions by 10 million tons past 1980 emission levels and to reduce NO_x emissions by 2 million tons past 1980 levels by the year 2000.

5-4.6.7 Aerospace and Marine Coatings. EPA is required by the CAA to issue NESHAPs and CTGs to control emissions from aerospace manufacturing/rework and shipbuilding/repair. The rules will establish MACT and BACT requirements for aircraft and ship activities such as cleaning, painting, depainting, maskant application, and waste handling. Generally, the emission reductions will be achieved through the use of compliant materials or control devices. Other requirements will include testing, recordkeeping, and reporting protocols. These rules are expected to have substantial cost and labor impacts.

5-4.6.8 Training. Every person who prepares or supervises the preparation of air emissions inventories, air emissions permit requests and air emissions reports will receive environmental overview training specified in Chapter 24, will receive specific comprehensive training in their assigned subject matter, and must be familiar with the provisions of this chapter. In addition, the CAA requires the following:

a. **Chemical Process Safety Management.** The CAA required the issuance of a chemical process safety standard to protect employees from the dangers associated with accidental releases of highly hazardous chemicals in the workplace. The safety standard requires employers to train employees in operating procedures, emphasizing hazards and safe practices, ensure contractors and contract employees are provided with appropriate information and training, and train and educate employees and contractors in emergency response in a manner as comprehensive and effective as that required by SARA. The standard and a list of highly hazardous chemicals can be found in reference (a).

b. **Solid Waste Incineration.** A program for the training and certification of operators of high capacity (greater than 250 tons per day) solid waste incineration units and high-capacity fossil fuel fired plants is required by the CAA. By 15 November 1994 it will be unlawful to operate any such unit unless each person with control over processes affecting emissions from such units has satisfactorily completed a training program which meets EPA requirements.

5-5 Navy Policy

5-5.1 Stationary Sources

5-5.1.1 Fuel Standards. Navy commands shall comply with Navy and regulatory fuel composition requirements applicable to solid, liquid, and gaseous fuels for stationary fuel-burning equipment.

5-5.2 Mobile Sources

5-5.2.1 Tampering with Emission Controls. Navy personnel are prohibited from permanently removing or rendering inoperative any device, or element of design, which is installed in a government motor vehicle or engine to comply with air quality regulations.

5-5.2.2 Fuel Standards. Navy commands shall comply with Navy and regulatory requirements for composition of fuels used in motor vehicles. Navy installations dispensing gasoline shall be equipped to dispense unleaded gasoline. The Navy shall not procure any gasoline-powered vehicle that cannot operate on unleaded gasoline.

5-5.2.3 Vehicle Inspection and Maintenance (I/M). Navy commands shall comply with local area vehicle emission I/M program requirements for fleet vehicles and shall furnish proof of

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compliance when required by the local regulatory authority. Commands are authorized to develop I/M procedures for their fleet vehicles as a part of normal preventive maintenance programs.

5-5.2.4 Introduction of Alternative Fuel Vehicles (AFVs). Per the requirements of EPACT, the Navy shall introduce light-duty AFVs into administrative vehicle fleets. Introduction of AFVs will target fleets within nonattainment areas in order to ensure compliance with CAA requirements which will be effective starting in 1998.

The Navy shall work with other Federal agencies to maintain compatibility and inter-operability of AFVs and refueling sites. Implementation sites will be selected to minimize cost, maximize inter-Federal cooperative efforts and develop infrastructure.

The Navy prefers original equipment manufacturer AFVs to AFV conversions. Vehicles which are converted shall meet, as a minimum, California Air Resources Board (or equivalent) certification requirements.

The Assistant Secretary of the Navy (Installations and Environment) has the lead for oversight of Department of the Navy (DON) implementation of AFV programs.

5-5.3 Air Pollution Emergency Episodes. Where required, Navy shore facilities shall have an air pollution emergency episode contingency plan that shall identify all actions that can reasonably be taken without compromising essential services and mission responsibilities.

5-5.4 Conformity. Final interim guidance for conducting conformity reviews will be issued by the end of calendar year (CY) 94, to be included as Appendix F.

5-5.5 Emission Reduction Credits (ERCs). ERCs shall be acquired and disposed under references (d), (e), (h), and (i) as if they were personal property.

a. For bases that are being closed or realigned under the Base Closure and Realignment Act of 1988 (Public Law 100-526) and the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510) process or any subsequent base closure law, ERCs shall be utilized and disposed of per DoD and DON policy.

b. For operating installations, ERCs will be utilized and disposed of in the following manner:

(1) ERCs generated from a change in operations, removal from service of equipment, etc., or any other action that results in emissions reduction may be banked for:

(a) Future use by that same installation

(b) Transfer to another Navy installation within the same AQD or another AQD that will accept transfer of the credits

(c) Transfer to any DoD installation within the same AQD or another AQD that will accept transfer of the credits; or

(d) Transfer to any other Federal agency within the same AQD or another AQD that will accept transfer of the credits.

(2) ERCs may be transferred between services under 10 U.S.C. Section 2571, with or without compensation

(3) ERCs determined to be surplus to the Federal government shall be reported for screening and disposal using the existing personal property disposal mechanisms.

Installations requiring ERCs shall either:

(a) Purchase ERCs from other sources; or

(b) Obtain offsets from on-installation sources.

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No ERCs may be disposed of or traded to non-Navy facilities unless such action has been coordinated with the appropriate REC.

5-5.6 Airborne Radionuclide Emissions. Airborne radionuclide emissions into the environment are regulated under reference (b). Within the Navy, the Naval Nuclear Propulsion Program is responsible for all aspects of compliance with Subpart I pertaining to nuclear propulsion. The Navy Radiation Safety Committee is responsible for compliance with Subpart I with respect to airborne radionuclide emissions from all other Navy sources.

5-5.7 Radon. The Navy Radon Assessment and Mitigation Program (NAVRAMP) was submitted and approved by EPA as the plan to identify, mitigate, and prevent radon contamination in Navy occupied buildings. All Navy installations will implement the NAVRAMP testing program to identify the level of indoor radon. Buildings determined to have indoor radon levels above 4 picoCuries per liter (pCi/L) will be mitigated to reduce levels. Appropriate radon reduction techniques will be incorporated into the design and construction phases of new structures where it has been determined necessary because of regulatory requirements, historical data, or geological conditions.

5-6 Responsibilities

5-6.1 Deputy Chief of Naval Operations (Logistics) (N4) shall:

a. Coordinate the overall implementation of Clean Air Act requirements.

b. Coordinate the review of proposed and final CAA regulations.

c. Issue policy and guidance as needed.

d. Coordinate the review of fines/penalties with OAGC(I&E).

5-6.2 Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM) shall:

a. Revise technical documents and manuals to reflect design, operation, monitoring, and testing parameters required by emission and performance standards and permit requirements for shore facilities.

b. Provide technical assistance to shore commands, as requested, to:

(1) Determine permit and variance requirements, obtain data, and complete applications.

(2) Determine and implement requirements for mobile source controls.

c. Develop and provide to activity commanding officers required air applications/permits for preconstruction review/construction of Military Construction (MILCON) funded air projects and pay related fees from the funds appropriated and budgeted for the projects. Such projects include initial source testing for startup of facilities and initial operating permits.

d. Maintain Navy-wide information on location and physical characteristics of Navy stationary sources, including key features of variances and delay compliance orders (DCOs).

e. Identify compliance requirements for new construction by coordination of all new projects or modifications with appropriate State/local and/or EPA regional office and the affected facility.

f. Identify appropriate emission offsets, where required for new construction, and prepare and coordinate projects to implement offset requirements.

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g. Revise technical documents and manuals to reflect design parameters required to reduce radon levels in occupied structures.

h. Assist Navy vehicle fleets in I/M testing.

5-6.3 Major claimants and subordinate commands shall:

a. Ensure that activities under their command comply with current Federal, State, interstate, and local air pollution control requirements.

b. Include requests for resources to meet air pollution control requirements in Program Objectives Memorandum (POM)/budget submissions.

5-6.4 Regional environmental coordinators shall:

a. Coordinate input and comments to all applicable SIPs in their area of responsibility.

b. Coordinate ERC trading among Navy facilities.

c. Notify CNO (N45) of any significant or precedent-setting State or local regulatory actions with the potential to impact Navy operations.

d. Perform the functions of Navy air pollution episode coordinator within air quality control regions, or portions thereof, under their jurisdiction. Air pollution episode coordinators shall ensure that air episode plans and actions are consistent in degree and timing for all Navy activities in the affected episode area and are also as consistent as possible with plans and actions of other Federal activities and State and local air pollution control authorities.

5-6.5 Commanding officers of shore activities shall:

a. Identify and submit environmental compliance projects, per Chapter 1, required to bring air sources into compliance.

b. Assure CAA general conformity rule requirements are satisfied for all Navy actions on the installation.

c. Sign all permits and compliance statements for operations conducted on the installation unless multi-installation permits are to be signed by a higher authority. Develop specific host/tenant agreements to ensure tenants will comply with all CAA requirements.

d. Sign applications for permits related to demolition, preconstruction, and construction phases of projects unless multi-installation permit applications are to be signed by a higher authority. Develop applications and pay-related fees for non-MILCON projects. Similarly, sign applications and pay related fees associated with operations permits and variances to temporarily operate sources out of compliance with emission limitations.

e. Budget sufficient resources to maintain and demonstrate compliance, including all routine air monitoring and scheduled sampling or testing, and notify State and local authorities, to conform with permit requirements, of all instances of non-compliance.

f. Survey emission sources to identify potential reductions.

g. Report potential ERC sources to the REC.

h. Submit, via the chain of command, to CNO (N45) all instances in which compliance with fuel standards is impractical.

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i. Maintain current records of physical, operational, and emission characteristics of air sources.

j. Ensure the development of air episode plans as required, and provide copies of plans to the REC.

k. Cooperate with the Navy air pollution episode coordinator, EPA, and State and local air pollution control authorities in the execution of air episode plans while in episode areas.

l. Ensure that motor vehicles and other mobile sources comply with applicable emission standards and other requirements.

m. Develop and implement transportation control measures as required by the SIP.

n. Where applicable, furnish to the appropriate regulatory authority proof of compliance with all State and local motor vehicle I/M requirements for all vehicles operated on the installation.

o. Implement and maintain proper adjustments in stationary heating and power plant operations to reduce total emissions. Substantial fuel savings can also result from proper combustion operations and combustion air monitoring.

p. Ensure training is provided as required by the CAA.

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CHAPTER 6

MANAGEMENT OF OZONE DEPLETING SUBSTANCES

6-1 Scope

This chapter implements Department of Defense (DoD) and Secretary of the Navy (SECNAV) policy concerning the management of ozone-depleting substances (ODSs); incorporates the necessary changes to the U.S. Navy ODS Program under the requirements of the Clean Air Act Amendments of 1990; the accelerated production phase-out schedules for Class I ODSs (1 January 1994 for Halons, 31 December 1995 for all other Class I ODSs); Executive Order (EO) 12843 of April 21, 1993 regarding acquisition and ODSs; and details specific restrictions and use of ODSs within the Navy. This chapter supersedes OPNAVINST 5090.2A "Management of Ozone Depleting Substances" dated 14 July 1994.

The requirements of this chapter apply to all Navy ships, aircraft, shore activities (including non-appropriated fund activities), and government-owned/contractor-operated (GOCO) facilities world-wide except as follows:

a. **Naval Nuclear Propulsion Program.** Executive Order (EO) 12344 and Public Law (P.L.) 98-525 (42 USC 7158, note) establish the responsibilities and authorities of the Director, Naval Nuclear Propulsion Program, N00N, in the Office of the Chief of Naval Operations, (CNO) (who is also Deputy Commander Nuclear Propulsion Directorate (SEA 08) in the Naval Sea Systems Command) over all facilities and activities which comprise the Program, a joint Department of Energy (DOE)/Navy organization. These responsibilities and authorities include all technical and logistical matters related to naval nuclear propulsion. Nothing in this policy supersedes or changes these responsibilities and authorities. Accordingly, the provisions of this policy do not apply to facilities and activities covered under EO 12344 and P.L. 98-525.

b. **Medical Devices.** This policy does not apply to essential uses of ODSs for medical devices as defined in the Clean Air Act (CAA) §601(8) and approved for use as specified in CAA §604(d)(2) and §605(d)(1) by the Commissioner of the Food and Drug Administration and the Administrator of the Environmental Protection Agency for Class I and Class II ODS.

c. **Small Appliances.** Small appliances are appliances that do not normally require routine maintenance of the sealed refrigerant system and contain a refrigerant charge of five pounds or less. Examples are refrigerators, freezers, dehumidifiers, ice makers, vending machines, water coolers, etc. The phase-out of Class I ODSs used in shore based non-mission critical heating, ventilating, air conditioning and refrigerating (HVAC&R) equipment of paragraph 6-5.6 does not apply to small appliances.

d. **Laboratory and Analytical Uses.** This policy does not apply to essential uses of ODSs in very small quantities for laboratory purposes. As defined in the Technology and Economic Assessment Panel Report of the Montreal Protocol of March 1994, laboratory purposes include: equipment calibration; use as extraction solvents, diluents, or carriers for specific chemical analysis; biochemical research; inert solvents for chemical reactions; and other critical purposes in research and development where substitutes are not readily available or

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where standards set by national and international agencies require specific use of ODSs.

6-1.1 References. Relevant references are:

a. 40 CFR Part 82, EPA Regulations on the Protection of Stratospheric Ozone;

b. DoD Directive 6050.9 of 13 February 1989, Ozone Depleting Substances; (NOTAL)

c. SECNAVINST 5090.5 Ozone Depleting Substances; (NOTAL)

d. SECNAV memorandum of 28 May 1993: "Elimination of Class I Ozone Depleting Substances in Department of the Navy Contracts"; (NOTAL)

e. OPNAVINST 4110.2, Hazardous Material Control and Management; (NOTAL)

f. BUMEDINST 6270.8, Procedures for Obtaining Health Hazard Assessments Pertaining to Operational Use of Hazardous Materials; (NOTAL)

g. NAVAIR 00-80R-14, U.S. Navy Aircraft Firefighting and Rescue Manual (NOTAL).

6-2 Legislation

6-2.1 Clean Air Act (CAA), as amended. In November of 1990, the United States Congress passed implementing national legislation as Title VI of the 1990 Clean Air Act Amendments.

6-2.2 Montreal Protocol on Substances that Deplete the Ozone Layer. The presence of chlorofluorocarbons (CFCs), halons, other chlorinated hydrocarbons (carbon tetrachloride, methyl chloroform), hydrochlorofluorocarbons (HCFCs), etc. in the stratosphere has been linked to the depletion of the earth's ozone layer which protects life and vegetation from damaging ultraviolet light. In response to the threat ODSs present to the environment, more than 125 nations, including the United States, have signed an international agreement, known as the Montreal Protocol, limiting ODS production. In 1990, due to increasing evidence of continued harm to the ozone layer, the Protocol was amended to provide for the eventual elimination of most ODSs. In November 1992, in a meeting in Copenhagen, parties to the Montreal Protocol agreed to accelerate the production phase-out schedules of CFCs to 1 January 1996 and halons to 1 January 1994.

6-2.3 National Defense Authorization Act for Fiscal Year 1993. The DoD authorization of funds for 1993.

6-3 Terms and Definitions

6-3.1 Mission Critical Use. Any use of a substance which has an impact on combat mission capability, as determined by CNO and described in paragraph 6-5.4.

6-3.2 Ozone Depleting Substances (ODSs). Any chemical which is listed as a Class I or Class II substance as defined by the CAA. A listing of Class I ODSs is included in Table 6.1. Table 6.2 is a listing of Class II ODSs. As of the issuance of this instruction, ODSs most prevalent in Navy applications include: CFC-11, CFC-12, CFC-113, CFC-114, CFC- 115, HCFC-22, HCFC 123 (CFCs and HCFCs are also commonly referred to as Freons), Halon 1211, Halon 1301, methyl chloroform (1,1,1 trichloroethane), and carbon tetrachloride.

6-3.3 ODS Reserve. The DoD ODS reserve located at Defense General Supply Center (DGSC) Richmond, VA. Supply of Class I ODS to support mission critical requirements.

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CLASS I CHEMICAL AGENTS

Group I (CFC - chlorofluorocarbon)		ODP[1]
CFC-11	Trichlorofluoromethane	1.0
CFC-12	Dichlorodifluoromethane	1.0
CFC-113	Trichlorotrifluoroethane	0.8
CFC-114	Dichlorotetrafluoroethane	1.0
CFC-115	Monochloropentafluoroethane	0.6
CFC-500[2]	Dichlorodifluoromethane-difluoroethane	0.738
CFC-502[3]	Monochlorodifluoromethane-monochloropentafluoroethane	0.307
Group II		
Halon-1211	Bromochlorodifluoromethane	3.0
Halon-1301	Bromotrifluoromethane	10.0
Halon-2402	Dibromotetrafluoroethane	6.0
Group III (CFC - chlorofluorocarbon)		
CFC-13	Chlorotrifluoromethane	1.0
CFC-111	Pentachlorofluoroethane	1.0
CFC-112	Tetrachlorodifluoroethane	1.0
CFC-211	Heptachlorofluoropropane	1.0
CFC-212	Hexachlorodifluoropropane	1.0
CFC-213	Pentachlorotrifluoropropane	1.0
CFC-214	Tetrachlorotetrafluoropropane	1.0
CFC-215	Trichloropentafluoropropane	1.0
CFC-216	Dichlorohexafluoropropane	1.0
CFC-217	Monochloroheptafluoropropane	1.0
CFC-503[4]	Trifluoromethane-trichlorotrifluoroethane	0.599
Group IV		
Carbon Tetrachloride	Tetrachloromethane	1.1
Group V		
Methyl Chloroform	1,1,1-Trichloroethane	0.1
Group VI		
Methyl Bromide	Bromomethane	0.7

Table 6.1

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CLASS I CHEMICAL AGENTS

Group VII		ODP[1]
$CHFBr_2$		1.0
CHF_2Br	(H8FC-22B1)	0.74
CH_2FBr		0.73
C_2HFBr_4		0.3-0.8
$C_2HF_2Br_3$		0.5-1.8
$C_2HF_3Br_2$		0.4-1.6
C_2HF_4Br		0.7-1.2
$C_2H_2FBr_3$		0.1-1.1
$C_2H_2F_2Br_2$		0.2-1.5
$C_2H_2F_3Br$		0.7-1.6
$C_2H_3FBr_2$		0.1-1.7
$C_2H_3F_2Br$		0.2-1.1
C_2H_4FBr		0.07-0.1
C_3HFBr_6		0.3-1.5
$C_3HF_2Br_5$		0.2-1.9
$C_3HF_3Br_4$		0.3-1.8
$C_3HF_4Br_3$		0.5-2.2
$C_3HF_5Br_2$		0.9-2.0
C_3HF_6Br		0.7-3.3
$C_3H_2FBr_5$		0.1-1.9
$C_3H_2F_2Br_4$		0.2-2.1
$C_3H_2F_3Br_3$		0.2-5.6
$C_3H_2F_4Br_2$		0.3-7.5
$C_3H_2F_5Br$		0.9-1.4
$C_3H_3FBr_4$		0.08-1.9
$C_3H_3F_2Br_3$		0.1-3.1
$C_3H_3F_3Br_2$		0.1-2.5
$C_3H_3F_4Br$		0.3-4.4
$C_3H_4FBr_3$		0.03-0.3
$C_3H_4F_2Br_2$		0.1-1.0
$C_3H_4F_3Br$		0.07-0.8
$C_3H_5FBr_2$		0.04-0.4
$C_3H_5F_2Br$		0.07-0.8
C_3H_6FB		0.02-0.7

NOTE:
1. Ozone Depletion Potential as stated in Section 602 of the CAA Amendments.
2. Azeotropic mixture of CFC-12 and Hydrofluorocarbon (HFC) 152a.
3. Azeotropic mixture of CFC-115 and HFC-22
4. Azeotropic mixture of CFC-113 and HFC-23

Table 6.1 Continued

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CLASS II CHEMICAL AGENTS (HCFC - hydrochlorofluorocarbon)		ODP[1]
HCFC-21	Dichlorofluoromethane	
HCFC-22	Monochlorodifluoromethane	0.05
HCFC-31	Monochlorofluoromethane	
HCFC-121	Tetrachlorofluoroethane	
HCFC-122	Trichlorodifluoroethane	
HCFC-123	Dichlorotrifluoroethane	0.02
HCFC-124	Monochlorotetrafluoroethane	0.02
HCFC-131	Trichlorofluoroethane	
HCFC-132	Dichlorodifluoroethane	
HCFC-133	Monochlorotrifluoroethane	
HCFC-141(b)	Dichlorofluoroethane	0.1
HCFC-142(b)	Monochlorodifluoroethane	0.06
HCFC-221	Hexachlorofluoropropane	
HCFC-222	Pentachlorodifluoropropane	
HCFC-223	Tetrachlorotrifluoropropane	
HCFC-224	Trichlorotetrafluoropropane	
HCFC-225	Dichloropentafluoropropane	
HCFC-226	Monochlorohexafluoropropane	
HCFC-231	Pentachlorofluoropropane	
HCFC-232	Tetrachlorodifluoropropane	
HCFC-233	Trichlorotrifluoropropane	
HCFC-234	Dichlorotetrafluoropropane	
HCFC-235	Monochloropentafluoropropane	
HCFC-241	Tetrachlorofluoropropane	
HCFC-242	Trichlorodifluoropropane	
HCFC-243	Dichlorotrifluoropropane	
HCFC-244	Monochlorotetrafluoropropane	
HCFC-251	Trichlorofluoropropane	
HCFC-252	Dichlorodifluoropropane	
HCFC-253	Monochlorotrifluoropropane	
HCFC-261	Dichlorofluoropropane	
HCFC-262	Monochlorodifluoropropane	
HCFC-271	Monochlorofluoropropane	

NOTE:

1. Ozone Depletion Potential as stated in Section 602 of the CAA Amendments.

Table 6.2

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6-3.4 Reclaiming. The process of returning a used or contaminated ODS to near original specifications, by means which may include distillation. Chemical analysis of the ODS is required to determine that the appropriate product specifications are met.

6-3.5 Recovery. The removal of any Class I or Class II ODS in any condition from a system without testing or processing.

6-3.6 Recycling. The reduction of contaminants in a used ODS by oil separation and single or multiple passes through devices which reduce moisture, acidity, and particulate matter.

6-4 Requirements

6-4.1 General. Applicable legislation implements the following requirements:

a. Production elimination of CFCs, carbon tetrachloride, and methyl chloroform by 31 December 1995 and for halons by 1 January 1994.

b. Mandatory use of approved recovery and recycling equipment by a certified technician when repairing or servicing motor vehicle air conditioners.

c. Mandatory use of approved recovery and recycling equipment by a certified technician when repairing, servicing, maintaining, or disposing of appliances and industrial process refrigeration and air conditioning.

d. Unlawful to knowingly release any Class I or Class II ODS refrigerants into the atmosphere during the service, repair, or disposal of appliances and industrial process refrigeration and air conditioning.

e. Reduction of the use and emission of ODSs to the lowest achievable level.

f. Labeling requirements of ODSs when shipped interstate.

6-5 Navy Policy

6-5.1 General. In recent years, the Navy has been involved in the research and development of alternative substances and systems, and recovery and recycling equipment that decrease the Navy's dependence on ODSs. Due to the large quantities of ODSs used and the numerous applications of these ODSs, each situation should be carefully evaluated to determine the proper course of action needed to phase out the usage of such ODSs. In all military applications, such as fire protection and shipboard chilled water air conditioning and refrigeration systems, it is essential that these ODSs be recycled, conserved, and properly managed to ensure adequate availability of ODS until such time as a suitable alternative can be tested, qualified, and implemented. It is important that the Navy continue to reduce use of ODSs and to eliminate emissions for compliance with the requirements of the CAA.

To satisfy these objectives, this chapter provides policy on ODS use, recycling, material management, emissions, substitution, and research, development, testing, and evaluation. This chapter also provides for annual demand reporting.

6-5.2 Acquisition. Acquisition of ODSs shall be per DoD Authorization Act of 1993; EO 12843 of April 21, 1993; reference (d) all implementing procurement regulations; and reference (c).

6-5.3 Procurement of Recycled or Reclaimed ODSs. Navy activities shall procure recycled or reclaimed ODSs whenever possible.

6-5.4 Mission Critical Applications. The use of Class I ODSs shall continue for mission

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critical applications so as to not jeopardize or degrade the safety or operational requirements of the Navy. Navy mission critical applications are as follows:

a. CFC-11, CFC-12, CFC-114, and CFC-500 used in ship combat systems support equipment and aircraft environmental control systems

b. Halon 1211 used in flight line fire protection, ship and shore-based crash fire and rescue vehicles, and limited use for firefighter training as detailed in the U.S. Navy Aircraft Firefighting and reference (f).

c. Halon 1301 used in shipboard room flooding applications and aircraft fire protection

d. Essential CFC-113 uses in the manufacturing and maintenance of combat weapon and support systems where no compatible approved substitute exists, (e.g., cleaning of gyroscopes and compressed oxygen systems)

e. Shore-based heating, ventilating, air conditioning, and refrigerating (HVAC&R) equipment and fire protection systems directly supporting weapon delivery systems as approved by CNO.

The use of ODSs in mission critical applications shall continue until such time as the cognizant System Command develops and approves and Echelon 2 Commands implement use of safe alternative substances or systems.

6-5.5 Use of ODS Reserve. Access to the DoD ODS reserve shall be restricted by CNO (N45). The ODS reserve shall be used only to support mission critical requirements stated above. Activities are prohibited from requisitioning ODSs from the reserve for non-mission critical applications. Deposits and requisitions from ODS reserve shall be monitored monthly by CNO (N45) and COMNAVSUPSYSCOM.

6-5.6 Motor Vehicle Technician Certification. Motor vehicle technicians performing service and repair on motor vehicle air conditioners shall be certified as specified by reference (a), Subpart B.

6-5.7 Shore-Based HVAC&R Equipment. All shore based (non-mission critical) HVAC&R equipment for which procurement was initiated after 14 July 1994 shall use an EPA Significant New Alternatives Program (SNAP) approved refrigerant with an ozone depletion potential (ODP) of 0.05 or less. Currently installed shore based (non-mission critical) HVAC&R equipment containing a Class I ODS shall be replaced or converted to an EPA SNAP approved refrigerant with an ODP of 0.05 or less by 31 December 2000. Serviceable refrigerant from the above replacements or conversions shall be recovered, recycled, reclaimed and reused. Refrigerant recovered, recycled, and reclaimed may be stored and used locally in order to service existing Class I ODS HVAC&R equipment to ensure an orderly transition to a non-Class I ODS refrigerant. This supply shall be managed at the activity level and eventually deposited in the Navy ODS reserve per all applicable regulations. If an activity determines that it is economically feasible to maintain some HVAC&R equipment containing a Class I ODS past 31 December 2000, then a waiver per this chapter is required. Activities should develop conversion/replacement plans for all non-mission critical HVAC&R equipment.

6-5.8 Shore-Based Halon 1301 Systems

6-5.8.1 General. All non-mission critical shore-based Halon 1301 systems shall be replaced by 31 December 2000. Halon 1301 shall be recovered and deposited in the Navy portion of the DoD ODS reserve. Transfer and processing of Halon 1301 shall be accomplished per Defense Logistics Agency (DLA) and Com-

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mander, Naval Supply Systems Command (COMNAVSUPSYSCOM) guidance.

6-5.8.2 Fire Protection Systems. Installation of shore based Halon 1301 fire protection systems is prohibited.

6-5.9 Portable Halon Fire Extinguishers

6-5.9.1 Mission Critical Uses. Procurement of portable halon fire extinguishers is prohibited except for mission critical uses.

6-5.9.2 Non-Mission Critical Uses. No later than 1 January 1996 all non-mission critical halon portable fire extinguishers shall be removed and redistributed locally to support mission critical requirements or turned in to the DLA for inclusion in the Navy portion of the DoD ODS reserve.

6-5.10 ODS Solvents. Navy activities requiring ODS solvents for mission critical applications after 31 December 1995 shall be supplied at the local level through the use of recycled or reclaimed sources. If an activity determines that mission critical needs cannot be fulfilled from recycled or reclaimed sources, the activity shall forward this information to CNO (N45) via its cognizant Echelon 2 command for certification.

6-5.11 Refrigerants

6-5.11.1 Maintenance. It is unlawful for any person, in the course of: maintaining, servicing, repairing, or disposing of any equipment (including small appliances) or systems containing Class I or Class II ODSs to knowingly vent or otherwise knowingly release the ODS in a manner which permits the substance to enter the environment. De minimis releases associated with good faith attempts to recapture and recycle or safely dispose of Class I and Class II ODSs are not subject to these restrictions.

6-5.11.2 Refrigerant Recovery

a. EPA-approved refrigerant recovery equipment shall be used for all commercial off-the-shelf equipment. For military-unique systems, recovery equipment shall be designed to the extent practical to achieve performance comparable to that required of commercial equipment by the EPA.

b. All Navy military and civilian refrigerant technicians shall be certified as per reference (a), Subpart F prior to 14 November 1994. Training priority should be granted to technicians servicing equipment within the U.S., then to technicians overseas. Technicians may require additional State or local certifications if more stringent than Federal certification. Technician certification requirements do not apply to foreign nationals working on U.S. Navy equipment overseas.

c. New and converted HVAC&R equipment shall include refrigerant isolation valves and service apertures to facilitate recovery and recycling procedures per CAA rulemaking requirements.

d. Per reference (a), Subpart F, EPA requires that owners of recycling and recovery equipment must certify to the regional EPA offices that they have acquired such equipment and that they are complying with Section 608 requirements of the CAA Amendments.

6-5.11.3 Refrigerants as Hazardous Material. ODS refrigerants are considered hazardous material (HM) and are subject to the requirements of this chapter as well as to the CAA and reference (d). Under 56 FR 5910, the EPA issued an interim final rule that suspends the toxicity characteristics of used Class I and Class II ODS refrigerants obtained with enclosed recycling systems provided that the refrigerant is reclaimed and intended for further use. There-

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fore, used Class I and Class II ODS refrigerants that are recycled for future use shall not be considered hazardous waste under Federal laws. However, where they are more restrictive, State and local ODS regulations apply.

6-5.12 Intentional Releases of Halon. Intentional releases of halon during the service, maintenance, repair, and disposal of any fire-fighting equipment will be illegal as of 15 November 1994.

6-5.13 EPA SNAP Approved Alternatives. Navy activities shall use EPA SNAP approved alternatives with an ODP of zero, whenever possible. If no EPA SNAP approved alternatives with an ODP of zero exist, activities shall adopt ODS alternatives with an ODP of 0.05 or less for HVAC&R and fire fighting equipment. Activities should consider that the production phaseout schedule for most Class II ODSs begins in 2020 and is subject to possible acceleration.

6-5.14 Conservation Practices. Conservation practices for all ODSs including regular system leak checks, improved supply management, and recycling and reclamation of Class I and Class II ODSs shall be used to the extent practical.

6-5.15 ODS Demand Quantities

6-5.15.1 Reporting. As required by the CAA, information on all ODS demand quantities for Navy use shall be collected and reported annually by COMNAVSUPSYSCOM. Reporting of accidental releases previously required in OPNAVINST 5090.2A are no longer applicable unless State or local regulations pertain.

6-5.15.2 Surveys. Surveys on ODS demand shall be conducted annually by COMNAVSUPSYSCOM for all ships, shore activities and GOCO facilities. All Navy activities, tenant activities, and ships shall report demand of ODSs purchased outside the Naval Supply System. Activities shall submit survey forms no later than 1 February of each year.

6-5.16 Review of Navy Practices. All operational, training and testing practices shall be reviewed and modified to reduce and eliminate emissions of ODSs to the maximum extent possible

6-5.17 Emerging Technology/Alternatives. Navy activities having any information regarding new emerging technologies and alternatives for the elimination of ODSs should contact Commander, Naval Sea Systems Command (COMNAVSEASYSCOM) for incorporation into the Navy CFC/Halon Clearinghouse (CHC). Furthermore, activities may request information on ODS alternatives by contacting the CHC through COMNAVSEASYSCOM.

6-5.18 Disposal of ODSs

6-5.18.1 Sale of ODSs. No Navy activity shall sell any Class I ODS outside the Navy without written permission from the CNO (N4). Excess Class I ODSs shall be deposited into the Navy portion of the DoD ODS reserve.

6-5.18.2 Turn-in of Equipment to Defense Reutilization and Marketing Service (DRMS). HVAC&R equipment determined to be usable when turned into the Defense Reutilization and Marketing Service (DRMS) shall be labelled to indicate that the equipment contains an ODS. Activities transferring HVAC&R equipment to DRMS for disposal as scrap shall recover the ODS prior to disposal. This also applies to small appliances.

6-5.19 Waivers. Requests for waivers to the provisions of this chapter shall be submitted to the CNO (N45) via the chain of command. For such waivers, an activity must demonstrate that the application of the requirements of this chapter is impractical or results in the expenditure of

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resources which are not commensurate with the resultant reduction in the potential for unintentional release of ODSs to the environment. Statutory requirements shall not be waived.

6-6 Responsibilities

6-6.1 Deputy Chief of Naval Operations (Logistics) shall:

a. Annually review, in conjunction with the Directors of Warfare Divisions and Director of Test & Evaluation and Technology Requirements, the adequacy of ODS programs and resources.

b. Review all requests for waivers to the requirements of this chapter and forward recommendations to the Assistant Secretary of the Navy (Installations & Environment) (ASN (I&E)).

6-6.2 COMNAVSEASYSCOM shall:

a. Serve as the lead technical Echelon 2 command to coordinate the ODS programs of the other Echelon 2 commands to ensure that all Navy-wide common interests and concerns are addressed.

b. Conduct quarterly Program Status meetings with the major claimants to gather and disseminate information and determine progress made by Navy activities.

c. Maintain the Navy CFC/Halon Clearinghouse (CHC) for use by all Navy activities.

6-6.3 COMNAVSUPSYSCOM shall:

a. Serve as the Navy liaison with DLA on matters pertaining to the establishment, maintenance, and operation of the ODS reserve.

b. Provide annually by 15 March of each year, a report to CNO(N4) on Navy demand of ODSs per Table 6.3.

c. Revise, as necessary, acquisition instructions and guidance to include additional ODSs as they are regulated by the EPA.

d. Assist Echelon 2 commands with the ODS recycling and reclamation program.

e. Incorporate into the Navy supply system, refrigerant and halon recovery and recycling equipment and appropriate spare parts as soon as possible after contract award and notification by other Echelon 2 commands.

6-6.4 Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM) shall:

a. Develop, and revise as necessary, guidance for Navy shore activities on requirements for air conditioning and fire protection systems.

b. Develop a guide scope for analyzing shore based HVAC&R equipment and providing recommendations to commanding officers on the most cost effective manner of replacing, converting, or retro-fitting existing HVAC&R systems.

c. Prepare plans for the replacement, conversion, or retrofitting of existing HVAC&R system at shore activities as requested.

d. Provide, as requested, technical support to activities in the development of ODS phase out plan.

6-6.5 Chief, Bureau of Medicine and Surgery shall provide workplace hazard evaluations and health risk assessments for ODS substitutes which are proposed for use in industrial opera-

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OZONE DEPLETING CHEMICALS ANNUAL REPORT				REPORT CONTROL SYMBOL
1. COMPONENT				2. CALENDAR YEAR
3. QUANTITIES *(in thousands of pounds)*				
CHEMICAL a.	PROCUREMENT (DLA USE ONLY) b.	RESERVE QUANTITY (DLA USE ONLY) c.	COMPONENT DEMAND (INCLUDING LOCAL PURCHASES) d.	NEW SYSTEM ACQUISITIONS e.
(1) CFC-11				
(2) CFC-12				
(3) CFC-13				
(4) CFC-113				
(5) CFC-114				
(6) CFC-115				
(7) R-500				
(8) R-502				
(9) R-503				
(10) HALON 1211				
(11) HALON 1301				
(12) HALON 2402				
(13) METHYL CHLOROFORM				
(14) CARBON TETRACHLORIDE				
(15) HCFC-22				
(16) HCFC-123				
(17) HCFC-141B				

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Table 6.3 Ozone Depleting Chemicals Annual Report

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tions and Navy-unique working environments, as requested by other Echelon 2 commands. Reference (e) provides guidance regarding procedures for requesting Health Hazard Assessments.

6-6.6 Chief of Naval Education and Training shall:

a. Develop alternate training procedures using safe alternatives to ODSs where consistent with operational requirements without degradation to mission effectiveness.

b. Incorporate ODS issues into hazardous material control and management training.

c. Incorporate ODS issues into enlisted class A and class C schools and officer training courses as appropriate.

d. Incorporate EPA-required training in the proper use of ODS recovery and recycling equipment into HVAC&R technician curriculums.

e. Ensure that training in the proper use of ODS recovery and recycling equipment is incorporated into the Navy Environmental Training Plan.

f. All graduates of Chief of Naval Education and Training (CNET) courses which teach maintenance on systems containing ODSs shall be Federally certified per reference (a) subpart F as a condition for graduation.

6-6.7 Major claimants and subordinate commands shall:

a. Implement the policies and procedures of this chapter and ensure that the annual reporting requirements outlined in this chapter are correctly followed by their activities.

b. Identify in their Program Objectives Memorandum (POM) process funding for elimination, recycling and substitution of ODSs. Research and Development (R&D) requirements shall be coordinated with COMNAVSEASYSCOM to avoid redundant efforts. All funding requirements from Echelon 2 commands shall be coordinated with CNO (N4) and forwarded directly to the appropriate resource sponsor. Funding requirements shall include:

(1) Estimates of resource requirements including costs associated with the revisions to military specifications referencing the use of ODSs.

(2) Assignment of responsibilities within their respective organization.

c. Describe specific projects for the elimination, recycling or substitution of ODSs with estimates on emission/use reduction, cost and completion date.

d. Develop and evaluate on a periodic basis reserve requirements for cognizant applications of ODSs and coordinate with COMNAVSUPSYSCOM. Requirements shall only be developed for mission critical uses.

e. Revise preventive and corrective maintenance procedures, for which they are the cognizant activity, to incorporate the use of ODS recovery and recycling units.

f. Revise military specifications and manuals, for which they are the cognizant activity, to reduce or eliminate references to the use of ODSs.

g. Participate in ODS consortiums, conferences, and technology transfer to ensure the Navy's interests are identified and satisfied.

h. Submit a semi-annual report by letter to CNO (N45) no later than 1 January and

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1 July on the status of elimination of ODSs in specifications and standards for which the Echelon 2 command is the cognizant authority. The report shall include:

(1) The total number of specifications and standards containing ODSs for which they have cognizant authority from the date of this instruction,

(2) The number of specifications and standards which reference an ODS that were revised to remove the reference to ODSs during this period,

(3) The total number of specifications and standards which reference an ODS that have been changed from the date of this instruction, and

(4) Any impediments to removing ODSs from specifications or standards and actions taken to resolve impediments.

For those Echelon 2 commands not holding cognizant authority over any specifications or standards, a one time negative report is required.

i. Review all requests from subordinate activities for waivers to the requirements of this chapter and forward recommendations to Deputy CNO (N4).

6-6.8 Director of Test and Evaluation and Technology Requirements shall annually review the adequacy of programmed funds and schedules, including test and evaluation, to achieve the R&D policies established in this chapter and reference (b).

6-6.9 Commanding officers ashore and afloat shall:

a. Report demand of ODSs purchased outside of the Naval Supply System per Table 6.3. Annual report will be submitted not later than 1 February of each year to COMNAVSUPSYSCOM (SUP 45) with an information copy to the chain of command (DD 2530 applies).

b. Implement appropriate ODSs procurement guidance as established by COMNAVSUPSYSCOM, COMNAVFACENGCOM, and other Echelon 2 commands.

c. Ensure that ODSs are included in the "authorized HM use list."

d. Establish practices and procedures internally to reduce emissions of ODSs as much as possible.

e. Provide resources (tuition, travel, per diem, etc.) for training refrigerant technicians on recovery and recycling equipment and ensure compliance with applicable certification requirements.

f. Submit requests for waivers to any of the mandatory provisions of this policy via the chain of command to the CNO (N4). Statutory requirements may not be waived.

6-6.9.1 Commanding officers ashore shall:

a. Develop and implement an ODS phase out plan to eliminate use of non-mission critical Class I ODSs by 31 December 2000 and to eliminate use of non-mission critical portable halon fire extinguishers by 1 January 1996.

b. Approve and submit plans to claimants for review and funding in the POM cycle.

c. Develop and implement a plan for ODS system leak checks, supply management and recycling and reclamation of Class I and Class II ODSs.

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CHAPTER 7

CLEAN WATER ASHORE

7-1 Scope

7-1.1 This chapter identifies requirements and responsibilities for the control and prevention of surface and ground water pollution at Navy shore facilities within the United States, Commonwealth of Puerto Rico, Canal Zone, Virgin Islands, Commonwealth of the Northern Marianas Islands, Guam, America Samoa, and the Trust Territory of the Pacific Islands. Information on Navy activities in foreign countries is provided in Chapter 18.

7-1.2 Specific requirements for management and protection of drinking water supplies are provided in Chapter 8. Requirements for oil pollution prevention ashore are provided in Chapter 9. Navy response actions for spills of oil or hazardous substances (OHS) in navigable waters are provided in Chapter 10. Pollution prevention requirements related to vessels are provided in Chapter 19.

7-1.3 References. Relevant references are:

a. 33 CFR 1, General Provisions, U.S. Coast Guard, Department of Transportation;

b. 33 CFR 80-82, COLREGS, Interpretive Rules;

c. 40 CFR 104, EPA Regulations on Public Hearings on Effluent Standards for Toxic Pollutants;

d. 40 CFR 109, EPA Regulations on Criteria for State, Local, and Regional Oil Removal Contingency Plans;

e. 40 CFR 110, EPA Regulations on Discharge of Oil;

f. 40 CFR 112, EPA Regulations on Oil Pollution Prevention;

g. 40 CFR 113, EPA Regulations on Liability Limits for Small Onshore Oil Storage Facilities;

h. 40 CFR 122, EPA National Pollutant Discharge Elimination System Permit Regulations;

i. 40 CFR 123, State Program Requirements;

j. 40 CFR 125, EPA Regulations on Criteria and Standards for the National Pollutant Discharge Elimination System;

k. 40 CFR 129, EPA Toxic Pollutant Effluent Standards;

l. 40 CFR 130, EPA Requirements for Water Quality Planning and Management;

m. 40 CFR 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants;

n. 40 CFR 144, EPA Permit Regulations for the Underground Injection Control Program;

o. 40 CFR 230, EPA Interim Regulations on Discharge of Dredged or Fill Material into Navigable Waters;

p. 40 CFR 231, Section 404(c) Procedures, EPA Regulations on Disposal Site Determination Under the Clean Water Act;

q. 40 CFR 403, General Pretreatment Regulations for Existing and New Sources of Pollution;

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r. 40 CFR 501, State Sludge Management Program Regulations;

s. DoD Directive 4120.14 of 30 August 1977, Environmental Pollution Prevention, Control and Abatement (NOTAL).

7-2 Legislation

7-2.1 Coastal Zone Management Act (CZMA). Administered by the Department of Commerce, the CZMA provides grants for development and management programs designed to achieve wise use of the land and water resources of the coastal zone. State CZMA programs include point and non-point source pollution control, flood control, sediment control, grading control, and storm water runoff control. Under the CZMA, Federal actions that affect any land or water use or natural resource of the coastal zone must be consistent to the maximum extent practicable with the State program.

7-2.2 Federal Water Pollution Control Act as amended by the Clean Water Act of 1977 (CWA). The purpose of the CWA is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. The CWA regulates the discharge of pollutants from point sources into waters of the United States. The CWA, as amended in 1987, requires each State to establish water quality standards for its surface waters derived from the amount of pollutants that can be assimilated by a body of water without deterioration of a designated use. The CWA limits any discharge of pollutants to a level sufficient to assure compliance with State water quality standards. Direct discharges of effluents are regulated under numerical limitations contained in National Pollutant Discharge Elimination System (NPDES) permits issued by the EPA or under State NPDES programs approved by EPA. Indirect industrial discharges of effluent to publicly-owned treatment works (POTWs) are subject to pretreatment standards promulgated by EPA.

The CWA prohibits spills, leaks or other discharges of oil or hazardous substances into waters of the United States in quantities that may be harmful. The Oil Pollution Act of 1990 (OPA 90) amended the CWA to expand oil spill prevention activities, improve preparedness and response capabilities, and ensure that companies are responsible for damages from spills. The CWA also requires a permit for the discharge of dredged or fill materials into waters of the United States.

7-2.3 Marine Protection, Research and Sanctuaries Act (MPRSA) (Ocean Dumping Act). The MPRSA requires the protection of contiguous zone waters from sewage sludge discharges and direct dumping, and through an ocean dumping permit program, provides procedures for the intentional disposal and/or abandonment of material into ocean waters.

7-2.4 Rivers and Harbors Act of 1899 (RHA). The RHA regulates the disposal of refuse and debris into the rivers and harbors of the U.S. and makes it illegal to create any obstruction to navigable waters without the approval of the Army Corps of Engineers (COE). The EPA, COE, and States regulate dredge and fill operations and dredge fill material disposal. EPA establishes criteria and guidelines to protect the nation's waters from contamination by dredged or fill material. The COE, and some States, administers permit programs for dredge and fill operations in waterways and wetlands, and for construction activities in navigable waters.

7-2.5 Safe Drinking Water Act (SDWA). The SDWA requires EPA to set national primary drinking water standards and provides for the direct control of underground injection of fluids that could potentially affect groundwater supplies. States usually assume the predominant

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role in executing groundwater protection programs. The EPA has direct responsibility only if a State chooses not to participate in the underground injection control program.

7-2.6 **Water Resources and Development Act of 1992.** This act requires the conservation and development of water and related resources. Title V (National Contaminated Sediment Assessment and Management Act) requires the establishment of a National Contaminated Sediment Task Force to: (1) conduct a comprehensive U.S. aquatic sediment quality survey; (2) develop an aquatic sediment criteria; (3) examine restoration methods; and (4) assess long-term disposal sites of dredged material not suitable for ocean dumping. Title V also amends the Marine Protection, Research and Sanctuaries Act of 1972 regarding ocean dumping, permitting, and penalties.

7-3 Terms and Definitions

7-3.1 **Aquatic Sediment.** Sediment underlying the navigable waters of the United States.

7-3.2 **Contiguous Zone.** The belt of high seas, 9 nautical miles wide, that is adjacent to and seaward of the territorial seas of the United States and was declared to exist in Department of State Public Notice 358 of June 1, 1972, 37 FR 11906.

7-3.3 **Discharge.** Includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping of any pollutant, but excludes certain cases under CWA Section 402.

7-3.4 **Discharge of a Pollutant.** As defined in reference (h), the discharge of a pollutant is:

a. Any addition of any "pollutant" or combination of pollutants to "waters of the United States" from any "point source," or

b. Any addition of any pollutant or combination of pollutants to the waters of the "contiguous zone" or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

This definition includes additions of pollutants into waters of the United States from: surface runoff which is collected or channelled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any "indirect discharger."

7-3.5 **Dredge and Fill Operations.** Dredge and fill operations encompass construction or other work involving excavation or discharge of dredged or fill material in waters of the U.S.

7-3.6 **Federally Owned Treatment Works (FOTWs).** A treatment works (as defined in Section 212 of the CWA) owned and operated by the Federal government. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to the FOTW. FOTWs that discharge treated effluent directly to waters of the U.S. are "treatment works." FOTWs that discharge pretreated effluent to another treatment works for final treatment and ultimate discharge to waters of the U.S. are "pretreatment works" (FOPTW).

7-3.7 **Internal Waters and Inland Water.**

a. "Internal waters" and, except as provided in paragraph (b) of this section, "inland waters" mean:

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(1) With respect to the U.S., the waters shoreward of the territorial sea baseline.

(2) With respect to any foreign country, the waters shoreward of the baseline of its territorial sea, as recognized by the U.S.

b. "Inland waters," as used in the CWA, means the waters shoreward of the lines described in reference (b), except the Great Lakes and their connecting and tributary waters as far east as Montreal, the waters of the Mississippi River between its source and Huey P. Long Bridge and all of its tributaries emptying thereinto and their tributaries, that part of the Atchafalaya River above its junction with the Plaquemine-Morgan City alternate waterway, and the Red River of the North.

7-3.8 National Pollutant Discharge Elimination System (NPDES). A national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits and imposing and enforcing pretreatment requirements, under Sections 307, 402, 318, and 405 of the CWA. The term includes an "approved program," per reference (h) definition. NPDES programs are either EPA or State programs. State programs must be approved and authorized by EPA under reference (i).

7-3.9 Navigable Waters of the United States (Navigable Waters, Territorial Waters)

a. Except as provided in paragraph 7-3.16(b) of this section, "navigable waters of the United States," " navigable waters," and "territorial waters" are defined to include, except where Congress has designated them not to be navigable waters of the U.S., the following:

(1) Territorial seas of the U.S.

(2) Internal waters of the U.S. that are subject to tidal influence

(3) Other waters over which the Federal government may exercise constitutional authority; and

(4) Internal waters of the U.S. not subject to tidal influence that:

(a) Are or have been used, or are or have been susceptible for use, by themselves or in connection with other waters, as highways for substantial interstate or foreign commerce, notwithstanding natural or man-made obstructions that require portage, or

(b) A governmental or non-governmental body, having expertise in waterway improvement, determines to be capable of improvement at a reasonable cost (a favorable balance between cost and need) to provide, by themselves or in connection with other waters, highways for substantial interstate or foreign commerce.

7-3.10 Navy Owned Treatment Works (NOTW). A treatment works as defined in Section 212 of the CWA, which is owned by a DON activity. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to the NOTW. NOTWs that discharge treated effluent directly to waters of the U.S. are "treatment works." NOTWs that discharge pretreated effluent to another treatment works for final treatment and ultimate discharge to waters of the U.S. are "pretreatment works" (NOPTW).

7-3.11 Non-point Source Discharges. Non-point source discharges are any discharges to waters of the U.S. that are not point source discharges, under reference (h).

7-3.12 Operator Certification. A program where a manager or operator is required by a

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State to complete necessary training and/or operational requirements to obtain a license or certificate to operate or manage a wastewater treatment facility. The requirements for certification vary with the State in which the wastewater treatment facility is located.

7-3.13 Point source. Point source means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

7-3.14 Pollutant. Includes dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological material, radioactive materials (other than those regulated as source, by-product, or special nuclear material (SNM) under the Atomic Energy Act of 1954, as amended), heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

7-3.15 Pretreatment. As defined in reference (q), pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a Publicly Owned Treatment Works (POTW).

7-3.16 Territorial Seas of the United States

a. With respect to the U.S., "territorial seas" means the waters within the belt, 3 nautical miles wide, that is adjacent to its coast and seaward of the territorial sea baseline.

b. With respect to any foreign country, "territorial seas" means the waters within the belt that are adjacent to its coast and whose breadth and baseline are recognized by the United States.

7-3.17 Territorial Sea Baseline. This is the delimitation of the shoreward extent of the territorial seas of the United States drawn according to the Convention on the Territorial Sea and the Contiguous Zone, 15 U.S.T. 1606, as recognized by the United States. Charts depicting the territorial sea baseline are available for examination per reference (a).

7-3.18 Toxic Pollutant. As defined in reference (h), a toxic pollutant is any pollutant listed as toxic under Section 307(a)(1) or, in the case of "sludge use or disposal practices," any pollutant identified in regulations implementing Section 405(d) of the CWA.

7-3.19 Treatment Works. Any domestic or industrial wastewater treatment devices or systems, regardless of ownership (including Federal facilities, such as FOTWs and NOTWs), used in the storage, treatment, recycling, and reclamation of domestic and industrial wastewater (including land dedicated for the disposal of associated sludge).

7-3.20 Treatment Works Treating Domestic Sewage. As defined in reference (h), this is a POTW or any other sewage sludge or wastewater treatment device or system, regardless of ownership (including Federal facilities), used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated for the disposal of sewage sludge. This definition does not include septic tanks or similar devices. For purposes of this definition, "domestic sewage" includes waste and wastewater from humans or household operations that are discharged to or otherwise enter a treatment works. In States where there is no approved State sludge management program under Section

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405(f) of the CWA, the Regional Administrator may designate any person subject to the standards for sewage sludge use and disposal in reference (r) as a "treatment works treating domestic sewage," where he or she finds that there is a potential for adverse effects on public health and environment from poor sludge quality or poor sludge handling, use or disposal practices, or where he or she finds that such designation is necessary to ensure that such person is in compliance with reference (r).

7-4 Requirements

7-4.1 General

a. As required by EO 12088 and the CWA, Navy facilities will comply with all substantive and procedural requirements applicable to point and non-point sources of pollution. These requirements include Federal, State, interstate, and local laws and regulations respecting the control and abatement of water pollution. Navy facilities must comply in the same manner and to the same extent as any nongovernmental entity, including the payment of reasonable service charges.

b. The discharge of any pollutant that does not comply with effluent standards or other procedural requirements is unlawful. The discharge of radiological, chemical or biological warfare agents or low level radioactive waste is prohibited.

7-4.2 Point Source Control

a. **Discharge Permits.** Permits are required for all point source discharges to waters of the U.S. Discharges must comply with all terms or conditions of EPA, State, or locally issued permits. For all discharge points in States that have an EPA approved NPDES program for Federal facilities, permits must be requested from the applicable State environmental agency. For all discharge points in States that do not have authority to issue NPDES permits for Federal facilities, permits must be requested from EPA. If the State has a non-NPDES clean water permit program, permits must be obtained from both the State and EPA. All monitoring records must be retained as required by Federal, State or local regulations.

b. **Industrial Wastewater Treatment/Pretreatment.** Industrial wastewater discharges from Navy facilities to POTWs are subject to national categorical pretreatment standards, or other applicable standards as established by State, county or local regulations.

c. **Discharges to NOTWs and POTWs.** Discharges to NOTWs and POTWs will meet all applicable general and categorical pretreatment standards.

d. **Storm Water Discharges.** Storm water discharges must meet all applicable Federal, State or local permit requirements, including control requirements for toxic and nonconventional pollutants, and best conventional technology (BCT) limits for conventional pollutants.

e. **Hazardous Pollutant Discharges.** HW may be introduced into a treatment facility only if the facility is specifically permitted to treat the type of waste introduced under a Resource Conservation and Recovery Act (RCRA) Treatment, Storage and Disposal (TSD) permit, or a "permit by rule."

f. **Sludge Disposal.** Discharge, treatment or incineration of treatment plant sludge must meet other applicable Federal, State and local requirements such as SWDA, RCRA, Clean Air Act (CAA), etc.

g. **Waste Disposal Sites.** Surface water runoff and leachate from waste disposal sites will conform to applicable requirements specified for disposal of solid waste (Chapter 14) or HW (Chapter 12).

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7-4.3 Groundwater Protection. Discharges to groundwater must meet applicable requirements of the SDWA, the CWA, and State and local implementing requirements, and applicable permit conditions.

7-4.4 Dredge and Fill Operations

a. **Permits.** Applications must be made to the COE for a permit to construct a structure in, or to otherwise alter or modify, navigable waters or wetlands. An application must also be submitted to the COE for dredge operations, including maintenance dredging. An application must be submitted to the COE for dredge disposal unless the disposal is permitted under a nationwide permit. Applicants are also required to obtain State certification that such actions comply with applicable State effluent limitations, water quality implementation plans, toxic effluent limitations, fish and wildlife protection plans, etc. State certifications may either be done as a part of the COE permit process, or independently if no COE permit is required because of a nationwide permit. Projects covered by a nationwide permit require COE notification even though no permit application is required. Field sampling may be required to select proposed dredge disposal sites. Other surveys, including site monitoring may be required at disposal sites before, during, and after disposal.

b. **Permit Exemptions.** Projects for which an environmental impact statement (EIS) has been written and submitted to Congress, and that have specific congressional authorization do not require COE or State permits.

Projects covered by a nationwide general permit require COE notification, but do not require individual permits. However, on a case-by-case basis, some additional individual requirements may be applied by COE or States.

c. **Discharges of Dredged or Fill Material.** Discharges of dredged or fill material into waters under COE jurisdiction will comply with Federal regulations. Disposal by ocean dumping requires a COE permit and compliance with EPA requirements (Chapter 21).

Discharges to waters under the jurisdiction of States will comply with applicable permits and discharge regulations, including State fee schedules.

Disposal site selection may entail field sampling and analyses. Elutriate and/or bioassay testing may be required to determine if the proposed dredged materials should be classed as polluted or unpolluted. Other surveys, including site monitoring, may be required at disposal sites before, during, and after disposal.

7-4.5 In-water Construction. The COE and some States require a permit for any in-water construction. Facilities proposing in-water construction will obtain applicable permits prior to award of construction contracts, and comply with all permit conditions.

7-4.6 Non-point Source Control. Non-point source discharges must conform to best practicable management procedures defined by Federal, State or local requirements established under Section 208 of the CWA.

7-5 Navy Policy

7-5.1 Point Source Reduction.

a. Navy policy shall be to reduce or eliminate wastewater treatment requirements by elimination or reduction of volume and pollutants at the source.

b. NOTWs discharging to U.S. waters shall apply for and operate under Federal and/or State discharge permits and shall achieve second-

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ary treatment and other effluent limitations as prescribed by discharge permits.

Navy owned Industrial Waste Treatment Plants (IWTPs) and other industrial processes discharging to U.S. waters, either directly or indirectly through a POTW, shall comply with the applicable best practicable control technology (BPCT) or best available technology (BAT) standards and any other effluent limitations prescribed by discharge permits. Such sources, although in compliance with a discharge permit at the time of issuance based on existing standards, are not automatically in compliance with the new standards. Where compliance dates are not established for new standards by permit renegotiation, affected sources shall comply with applicable standards within 1 to 3 years, or as specified by EPA or the State at the time of permit issuance.

c. Operators of Navy collection systems and treatment plants shall meet applicable training and certification requirements of the State, county, city or regional regulatory authority in which the system or plant is located.

d. Discharges to POTWs and NOTWs shall meet all general and applicable categorical pretreatment standards. NOTWs shall develop, implement, maintain and enforce pretreatment programs for all known dischargers to the NOTW.

7-5.2 Dredge and Fill Operations. Navy activities proposing to undertake any action requiring COE permitting shall apply to the COE District Engineer in the district where the proposed action is to be performed.

a. Permits for maintenance dredging shall include a permit expiration date that in no event will extend more than 10 years from the issue date. Requests for renewal from COE shall be filed with the cognizant District Engineer at least 2 years before expiration.

b. Early planning for dredge spoil disposal site selection, preparation, and use is essential. An Environmental Assessment (EA) shall be prepared by the sponsoring Navy activity and reviewed under Chapter 2 for each MILCON project involving a change to the width or depth of a channel or other water body.

c. Existing dredge spoil disposal sites, approved by COE, shall be used wherever possible. Proposed new dredge spoil disposal sites shall be identified to the cognizant COE District Engineer for evaluation and approval from 2 to 2 1/2 years before project initiation.

7-5.3 In-water Construction. Navy activities shall ensure compliance with appropriate Federal, State, and local regulations.

7-5.4 Stormwater Management (Non-point Source Control). A major contributor to surface water quality impairment is stormwater discharges. Significant sources of stormwater discharges include urban (facility) runoff, industrial activity, and construction. To address these environmental risks, Congress established a two-phased stormwater program under the CWA. Phase 1 applies to municipal storm sewer systems serving a population over 100,000, as well as stormwater discharges associated with industrial activity. Phase 2 covers all stormwater discharges that are not included in Phase 1. Stormwater discharges, covered by these provisions of the Act, are regulated as part of specific NPDES permits or under general group permits. Navy policy requires commands to ensure that all activities comply with stormwater management and pollution prevention requirements, as stipulated in permits under which the activities are covered.

7-5.5 Water Conservation. Navy commands shall ensure that all activities implement water conservation programs. These programs shall use existing or innovative technologies to reclaim, recycle and reuse wastewater to the

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maximum extent feasible, taking into account economic payback, process requirements and the scarcity of water resources available to the primary water supplier for the activity.

7-5.6 Training

a. Every person involved in operations at naval shore facilities which could result in pollution of surface or groundwater shall have received environmental overview training specified in Chapter 24 of this instruction, will receive specific comprehensive training in water pollution prevention required by the CWA and implementing regulations, and will be familiar with the provisions of this chapter.

b. COMNAVFACENGCOM and Engineering Field Division (EFD) environmental professionals, Navy regional environmental coordinators (RECs), shore activity technical and legal environmental staff and their managers shall have received environmental overview training specified in Chapter 24 of this instruction, and shall have received introductory or executive overview training in water pollution prevention and coastal zone management.

Wastewater treatment plant operators shall have received environmental awareness training specified in Chapter 24 of this instruction, and shall have received training and certification required by applicable State and local water quality regulations. Where State and/or local regulations do not specify training, the following subjects shall be included in their training plan:

(1) Basic wastewater plant design

(2) Wastewater plant operations

(3) Basic maintenance/calibration of plant controls and equipment

(4) Wastewater treatment principles

(5) Wastewater sampling and analysis

(6) Wastewater plant/systems documentation and reporting requirements.

7-6 Responsibilities

7-6.1 COMNAVFACENGCOM shall:

a. Prepare permit applications for construction and initial operation of MILCON funded projects and pay-related fees from the funds appropriated and budgeted for the projects. Provide permit applications to activity commanding officer (CO) for submittal to applicable regulatory agency.

b. Assist commands, as requested, in preparing permit applications for in-water construction, new dredging, dredge disposal, maintenance dredging, etc.

c. Assist commands, as requested, in identifying applicable effluent standards and appropriate control technologies and best management practices, and in developing storm water management plans and industrial wastewater management plans.

d. Coordinate the review of all projects for the construction of new treatment works with the appropriate Federal, State, and local regulatory agencies.

e. Maintain liaison with COE to facilitate dredge and fill project planning, preparation of EAs/EISs, and disposal site approval.

7-6.2 Major claimants shall:

a. Implement the CWA program requirements at their shore facilities.

b. Plan, program, budget and provide funding for current and future requirements under the CWA and revisions to the applicable regulations.

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7-6.3 Commanding officers (CO) of shore activities shall:

a. Comply with the applicable substantive and procedural Federal, State, local and regional clean water laws and regulations and with the conditions in dredge, disposal, construction, and discharge permit conditions.

b. Cooperate with Federal, State, local, and regional environmental regulatory officials.

c. Prepare or review and sign, or designate in writing the appropriate person to sign, all applications for permits to construct wastewater treatment plants, for in-water construction, for all new dredging, maintenance dredging, and dredge disposal operations, and shall obtain, renew, and pay for all new and recurring permits.

d. Operate and maintain NOTWs to assure continuing compliance with applicable Federal, State, and local regulations and permit conditions.

e. Coordinate Clean Water issues and permits with COMNAVFACENGCOM EFDs and Engineering Field Activities (EFAs), with major claimants, and with RECs.

f. Integrate Clean Water requirements into all applicable levels of activity management through the application of program management procedures including oversight, inspection, and training, and by requesting and committing sufficient resources to assure compliance with applicable Clean Water standards.

g. Ensure, if CO of host activity that owns, operates or uses sewage and wastewater collection and/or treatment systems, applications for applicable Federal, State, and/or local permits are filed, and ensure compliance with all permit conditions.

h. COs and officers in charge (OICs) of Tenant Activities shall comply with the policies of this manual and with written sewage and wastewater collection and treatment requirements established by the host CO.

i. Identify and submit environmental compliance projects, per Chapter 1, required to bring wastewater sources into compliance with applicable requirements.

j. Improve opportunities to recycle and reclaim and reuse wastewater and sludge.

k. Develop, implement, and maintain current storm water management plans, and comply with Federal, State, and local regulations and permit conditions, as applicable.

l. Ensure environmental personnel are properly trained (and certified as applicable).

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CHAPTER 8

DRINKING WATER SYSTEMS AND WATER CONSERVATION

8-1 Scope

8-1.1 This chapter identifies requirements and responsibilities for protection of the quality of Navy drinking water and the conservation of water in the United States, Commonwealth of Puerto Rico, Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Marianas Islands. Navy policy with respect to foreign countries is provided in Chapter 18.

Under Executive Order (EO) 12902, Federal agency use of energy and water resources is directed towards goals of increased conservation and efficiency.

8-1.2 References. Relevant references are:

a. 40 CFR 141, National Primary Drinking Water Regulations;

b. 40 CFR 142, National Primary Drinking Water Regulations Implementation;

c. 40 CFR 143, National Secondary Drinking Water Regulations;

d. 40 CFR 144, Underground Injection Control (UIC) Program;

e. 40 CFR 146, UIC Program: Criteria and Standards;

f. BUMED Instruction 6240.10 of 3 February 93, Standard for Potable Water; (NOTAL)

g. NAVFAC MO-210, Maintenance and Operation of Water Supply, Treatment and Distribution Systems (0525-LT-173-1950).

8-2 Legislation

8-2.1 Safe Drinking Water Act (SDWA). Specifies a system for the protection of drinking water supplies through establishment of contaminant limitations and enforcement procedures. Contaminant limits are established by the Environmental Protection Agency (EPA) through primary and secondary drinking water regulations.

a. Primary Drinking Water Regulations allow the EPA Administrator to set maximum contaminant levels or action levels (that may determine treatment requirements). There are several groups of contaminants for which standards are set:

(1) Inorganics

(2) Organics

(3) Turbidity

(4) Total Coliforms

(5) Radionuclides.

b. National Secondary Drinking Water Regulations cover the aesthetic quality of drinking water. These secondary levels represent reasonable goals for drinking water quality, but are not Federally enforceable. Individual States may establish higher or lower levels, which may be appropriate, dependent upon local conditions, provided that the public health and welfare are not adversely affected.

c. States have primary responsibility to enforce compliance with national primary drinking

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water standards and sampling, monitoring, and notice requirements.

d. SDWA requires each Federal activity with jurisdiction over a public water system to comply with applicable Federal, State, or local requirements, whether substantive or administrative.

8-3 Terms and Definitions

8-3.1 Action Level. As defined in reference (a), the concentration of lead or copper in water, which determines, in some cases, the treatment requirements a water system is required to complete.

8-3.2 Disinfectant. Any oxidant, including but not limited to, chlorine, chlorine dioxide, chloramines, and ozone, intended to kill or inactivate pathogenic microorganisms in water.

8-3.3 First Draw Sample. A 1-liter sample of tap water collected per reference (a), that has been standing in plumbing pipes at least 6 hours and is collected without flushing the tap.

8-3.4 Injection Well. As defined in reference (d), an injection well is a "well" into which "fluids" are being injected.

8-3.5 Lead Service Line. A service line made of lead that connects the water main to the building inlet, and any lead pigtail, gooseneck, or other fitting that is connected to such line.

8-3.6 Maximum Contaminant Level (MCL). The maximum permissible level of a contaminant in water that is delivered to any user of a public water system.

8-3.7 Maximum Contaminant Level Goal (MCLG). The maximum level of a contaminant in drinking water at which no known or anticipated adverse effect on the health of persons would occur and that allows an adequate margin of safety. Maximum contaminant level goals are nonenforceable health goals.

8-3.8 Point-Of-Entry (POE) Treatment Device. A treatment device applied to the drinking water entering a house or building for the purpose of reducing contaminants in the drinking water distributed throughout the house or building.

8-3.9 Point-Of-Use Treatment Device. A treatment device applied to a single tap for the purpose of reducing contaminants in drinking water at that one tap.

8-3.10 Public Water System (PWS). A public system for the provision of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such system includes: any collection, treatment, storage and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control that are used primarily in connection with such system. A public water system is either a "community water system" or a "noncommunity water system."

NOTE:

Activities that purchase their water already treated but provide supplemental treatment such as rechlorination or softening (corrosion control) shall comply with reference (a). As noted in reference (a), activities that have water distribution and storage systems but purchase water from private or municipal utilities and do not treat or sell water are not required to meet EPA water system regulations under Part 141. However, all activities own and/or operate water supplies and are expected to comply with Navy policy.

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8-3.11 Sanitary Survey. An on-site review of the water source, facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation, and maintenance for producing and distributing safe drinking water.

8-3.12 Supplier of Water. Any person who owns or operates a public water system.

8-3.13 Treatment Technique Requirements. Filtration is required for public water systems supplied by a surface water source and public water systems supplied by a ground water source under the direct influence of surface water; reference (a) contains criteria for avoiding filtration. If the action level for lead or copper is exceeded, public water systems must install and operate optimal corrosion control equipment. Disinfection is required for all public water systems.

8-3.14 Turbidity. The measurement of the amount of light scattered by colloidal, suspended matter in liquid. Elevated turbidities, in drinking water, may be indicative of water quality problems.

8-3.15 Underground Injection. Underground injection means a "well injection." Well injection as defined in reference (d) means the subsurface emplacement of fluids through a bored, drilled or driven well or through a dug well where the depth of the dug well is greater than the largest surface dimension (see reference (e)).

8-3.16 Vulnerability Assessment. An evaluation by DoD that shows that contaminants of concern either have not been used in a watershed area or the source of water for the system is not susceptible to contamination. Susceptibility is based on prior occurrence, vulnerability assessment results, environmental persistence, transport of the contaminants, and any wellhead protection program results.

8-4 Requirements

8-4.1 General. Public water systems are required to comply with contaminant limitations and monitoring and enforcement procedures contained in the National Primary Drinking Water Regulations, or State requirements where the State has enforcement authority. Meeting of secondary standards is advisable, but not mandatory, unless required to do so by the State in which the public water system is located.

8-4.2 Sampling and Analysis. Initial sampling to characterize each specified contaminant (and any required subsequent sampling) will be conducted within required time frames and at the frequencies specified. There are different monitoring requirements for each contaminant group depending on whether the system uses surface water or ground water and on the number of people served. For more specific information refer to reference (a) Subpart C. Sample analyses must be performed in laboratories certified by EPA or the cognizant State. With the exception of required entry point samples, e.g., turbidity and fluoride, water samples must be collected at points that represent the quality of water in the distribution system.

8-4.3 Records. Records must be retained as follows:

a. Bacteriological Results - 5 years

b. Chemical Results - 10 years

c. Actions Taken to Correct Violations -3 years after action was taken with respect to the particular violation involved

d. Sanitary Survey Reports - 10 years

e. Variance or Exemption Records - 5 years following the expiration of such variance or exemption

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NOTE:

Some State, regional or local recordkeeping requirements may vary from the above. Recordkeeping must conform to the requirements of the primary agency.

8-4.4 Noncompliance Monitoring and Reporting. Commands operating public water systems must report the failure to comply with any National Primary Drinking Water Regulation (including failure to comply with monitoring requirements) variances, or exemptions to the State or EPA regional office (as applicable). In addition, commands will notify all persons served by the system using the method required by reference (a). The timing and means for all notifications are prescribed in the National Primary Drinking Water Regulations. In addition, this instruction specifically requires the situation be reported to the Navy chain of command.

8-4.5 Prohibition on Use of Lead Pipe, Solder, and Flux. The use of lead pipe, solder, or flux in the installation or repair of any public water system or plumbing in residential or non-residential facilities providing water for human consumption is prohibited. Solders and flux are considered lead free if they contain less than 0.2 percent lead; pipes and fittings are considered lead free if the lead content is less than 8.0 percent.

8-4.6 Lead in Drinking Water. The Lead and Copper Rule was published in the Federal Register on June 7, 1991 and became effective December 7, 1992. Public water systems must comply with the control of lead and copper, under the Rule, by conformance to the requirements of reference (a). The purpose of the EPA lead and copper in drinking water program is to ensure that the levels of the subject metals remain below the levels associated with health risks, in treated (finished) water, at the consumer's free flowing tap. Under reference (a), for the purpose of monitoring, consecutive systems (systems that purchase their water already treated from a primary supplier) can be treated as part of the supplier, instead of a separate system.

The lead action level is exceeded if the concentration of lead in more than 10 percent of the tap water samples collected during any monitoring period conducted per reference (a) is greater than 0.015 mg/L (i.e., if the 90th percentile lead level is greater than 0.015 mg/L). The copper action level is exceeded if concentrations of copper in more than 10 percent of tap water samples collected during any monitoring period conducted per reference (a) is greater than 1.3 mg/L (i.e., if the 90th percentile copper level is greater than 1.3 mg/L).

If an action level is exceeded, additional water quality parameter samples must be taken. Optimal corrosion control treatment may also be required. Lead service lines may have to be replaced, should prescribed treatment options fail to bring lead quantities below the action level.

8-4.7 Cross-Connection and Backflow Prevention. Cross-connection control programs will apply to both interior building domestic and fire protection plumbing systems as well as exterior water distribution systems. These programs help ensure compliance with primary and secondary drinking water standards by establishing policy, procedures, and instructions for installing, repairing, maintaining, inspecting, and testing backflow preventers.

8-4.8 Public Notification. The owner or operator of a public water system that fails to comply with an applicable MCL, or that fails to comply with the requirements of any schedule prescribed under a variance or exemption, will notify persons served by the system. The notices include some specific language about the health effects of each contaminant (see specific sections of reference (a) or contact the regulatory agency for this language). Notices will be by newspaper, mail delivery, hand delivery, radio and television announcements.

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8-4.9 Surface Water Treatment Rule (SWTR). The SWTR is a set of treatment technique requirements that apply to all water systems using surface water and those using ground water that is under the direct influence (UDI) of surface water. The rule requires that these systems properly filter the water, unless certain strict criteria are met. The rule also requires that these systems disinfect the water. There are no exceptions from the disinfection requirement.

Public water systems using a surface water source or ground water source (UDI) must be operated by qualified personnel who meet the requirements specified by the State.

8-5 Navy Policy

8-5.1 Navy policy is to:

a. Comply with applicable Federal, State, and local safe drinking water regulations.

b. Provide appropriate public notification.

c. Promote water conservation.

d. Implement testing requirements to determine the extent of lead exposure from drinking water at shore facilities.

e. Use municipal or regional drinking water supplies to the maximum extent practicable.

f. Comply with wellhead/watershed protection programs established by Federal, State or regional regulatory agencies.

g. Ensure all Navy water supplies meet basic microbiological standards through compliance with reference (a) coliform monitoring.

h. Require Navy suppliers of water to ensure primary water suppliers provide, minimally once a year, results of all testing performed on source water and treated water as it enters the distribution system, and to perform, minimally once a year, National Primary Drinking Water Standard (NPDWS) analyses on at least one sample from a representative point of entry into the Navy's consecutive system(s).

8-5.2 Water System Operator Certification. Navy water system operators shall meet certification requirements of the State in which the system is located.

8-5.3 Lead in Drinking Water. All Navy shore installations that own and operate a water supply should have completed sampling of drinking water coolers and outlets in priority areas (base housing, schools, day care centers, food preparation areas, and medical facilities) for lead. The sampling should have been conducted using the protocol developed by COMNAVFACENGCOM in April 1990. Even though drinking water coolers are now required to be manufactured lead free, lead levels can still concentrate in drinking water coolers if lead service lines upstream of drinking water coolers contain lead solder. All newly installed drinking water coolers shall be sampled to ensure lead levels are below the current action level. In addition, all outlets in any priority areas that have not been sampled, and assured to be below the current action level shall be sampled. Sampling protocols shall subscribe to "first draw" tap water sampling procedures.

A copy of all test results for priority areas shall be maintained for a minimum of 10 years, and shall be made available to the water consumers, as requested. Public notification, under reference (a), coordinated via the appropriate activity authorities (Occupational Safety and Health, Public Affairs, and Medical), shall be made to all consumers whose water supply tests above the current action level. COMNAVFACENGCOM shall issue guidance for activity public affairs officers.

Activities that purchase their water already treated, from a primary supplier, shall notify the supplier of lead levels that exceed the current

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action level, as confirmed by full protocol sampling. Mitigation measures to reduce or eliminate the source of the high lead levels shall be coordinated with the water supplier, as appropriate. Navy water systems that treat their own water or are supplied by wells shall implement mitigation procedures on their own.

8-5.4 Cross-Connection and Backflow Prevention. Every shore installation that owns and operates a drinking water supply shall ensure that a Cross-Connection Control and Backflow Prevention Program is developed and implemented. Minimum requirements of the program include: 1) establishing a mechanism to find, eliminate and prevent (whenever feasible) cross-connections; 2) establishing a mechanism to install, inspect and test backflow preventers that are required when cross-connections cannot be eliminated.

8-5.5 Navy Water Conservation Program. A phased, Navy-wide program for conservation of water, including leak detection, shall be implemented with initial emphasis on the use of water in Navy industrial processes. The priorities of the program are economic payback and conservation of water as a declining resource.

8-5.6 Surface Water Treatment. Commands operating public water systems that receive water from surface water or groundwater under the direct influence of surface water shall comply with all Federal, State, and local regulatory requirements regarding surface water treatment.

8-5.7 Training

a. Every person involved in operations at naval shore facilities that affect drinking water quality shall receive general environmental awareness training specified in Chapter 24 of this instruction, shall receive specific comprehensive training in potable water supply and systems requirements, and must be familiar with the provisions of this chapter.

b. COMNAVFACENGCOM and Engineering Field Division (EFD) environmental professionals, Navy Regional Environmental Coordinators, shore activity technical and legal environmental staff and their managers shall have received general environmental awareness training specified in Chapter 24 of this instruction, and overview training in drinking water supply and systems requirements.

c. Drinking water supply, systems, and treatment plant operators shall have received general environmental awareness training specified in Chapter 24 of this instruction, and shall have received training and certification required by applicable State and local regulations. Where State and/or local regulations do not specify training, the following subjects shall be included in the training plan:

(1) Basic water plant and/or distribution system design

(2) Basic water plant and/or distribution system operation

(3) Basic maintenance/calibration of plant controls and equipment

(4) Water plant and/or distribution systems treatment principles

(5) Water sampling and analysis

(6) Water plant and/or distribution system documentation and reporting requirements.

8-5.8 Drinking Water System Monitoring. Every shore installation that owns and operates a drinking water supply shall develop and implement a Drinking Water System Monitoring Program. Minimum requirements of the program include: 1) performance of microbiological sampling and analysis in conformance with reference (a) coliform monitoring, and 2) performance of NPDWS analyses on at least one sample from a

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representative point in the system, at least once a year.

8-5.9 Underground Injection Control Programs (UICP). Section 1422 of the SDWA requires the EPA Administrator to list in the Federal Register each State that must have an UICP. All States are listed. EPA has the authority and responsibility to approve State programs. EPA has also been granted authority to administer programs in States that do not have an approved program. The purpose of the UICPs is to assure that underground injection shall not endanger drinking water sources. All underground injections are unlawful and subject to penalties unless authorized by a permit or by a rule. Navy commands shall ensure that all activities comply with Federal or State, as applicable, UIC permit requirements or permit by rule requirements.

8-5.10 Operation and Maintenance. Every activity that owns and operates a Navy public water supply shall develop and implement an operation and maintenance program applicable to the system. Minimum requirements of the program include the proper implementation and documentation of: emergency and preventative maintenance, system disinfection after maintenance work is performed, scheduled flushing of the system, reducing water quality problems (as needed), and implementation and documentation of a valve exercise and maintenance program.

8-6 Responsibilities

8-6.1 COMNAVFACENGCOM shall:

a. Provide technical assistance, including requirements for cross connection control, to major claimants and activities in carrying out the requirements of this chapter.

b. Maintain management information, including a current inventory of Navy public water systems and any violation of safe drinking water standards.

c. Provide technical advice and prepare appropriate manuals or other forms of guidance for implementing water conservation within the Navy.

d. Manage the Navy's lead in drinking water program and coordinate actions of the other major claimants.

e. Provide assistance to shore activities for testing of drinking water outlets and selecting lead mitigation methods.

8-6.2 Chief, Bureau of Medicine (CHBUMED) shall:

a. Revise instructions and other appropriate documents to reflect Navy requirements.

b. Establish and publish appropriate additional standards of water quality and monitoring requirements for Navy drinking water systems afloat and overseas.

c. Provide health-related advice to Navy commands in carrying out their responsibilities for drinking water quality and distribution.

d. Ensure that health and safety issues are addressed for all lead mitigation measures considered by COMNAVFACENGCOM, especially chemical addition used to reduce lead in drinking water.

8-6.3 Major claimants shall:

a. Implement the SDWA program requirements at their shore activities.

b. Budget and provide funding for testing drinking water outlets and implementing interim lead mitigation measures.

c. Plan, program, budget and provide funding for current and future requirements under the

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SDWA and revisions to the primary drinking water standards.

8-6.4 Commanding officers of shore activities shall:

a. Budget sufficient resources for operations, maintenance, and repair of drinking water systems in compliance with applicable standards, including sampling/monitoring, reporting, recordkeeping, and other substantive and administrative requirements, including Navy requirements.

b. Ensure, if commanding officer of host activity that owns, operates or uses drinking water systems, applications for applicable Federal, State and/or local permits are filed and that activity(ies) comply with EPA, State, and local drinking water requirements.

c. Review the various uses of water at their activities to ensure that all economically practical water conservation measures are taken.

d. Provide for proper sampling and analysis, monitoring, operations, maintenance, repair and alteration regarding the drinking water system.

e. Ensure all personnel who collect samples and perform potable water system analyses are certified to do so per applicable Federal, State, and local regulations.

f. Provide resources (tuition, travel, per diem) for training operators of public water systems and ensure compliance with applicable State certification requirements.

g. Identify and submit compliance projects per Chapter 1, for environmental requirements.

h. Ensure that an adequate number of facility locations are included in the primary supplier's lead and copper sampling pool, and that appropriate action is taken, either by the primary supplier or the facility, based on reference (a) requirements.

i. Perform lead and copper monitoring, when the Navy water supply(ies) is(are) not included in the primary supplier's sampling pool.

j. Ensure that plumbing repairs made to activity drinking water systems use lead free materials.

k. Conduct vulnerability assessments.

l. Ensure that an operation and maintenance program is established and implemented at each activity. This applies to both primary and consecutive water supplies. At a minimum, the program must ensure proper emergency and preventative maintenance, proper system disinfection after maintenance work is performed, scheduled flushing of the distribution system as needed, and a valve exercise and maintenance program.

m. Ensure that a cross-connection and Backflow Prevention Program is established and implemented at each activity.

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CHAPTER 9

OIL MANAGEMENT ASHORE

9-1 Scope

9-1.1 This chapter identifies requirements and responsibilities applicable to the prevention of oil pollution and the collection, reclamation, and disposal of oily wastes and used oils ashore. Requirements apply in all areas within the United States, Commonwealth of Puerto Rico, Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands. Navy policy with respect to activities in foreign countries is provided in Chapter 18.

9-1.2 Navy response to oil spills under the National Contingency Plan (NCP) is given in Chapter 10. The management of petroleum products, residues, or other mixtures that meet the reference (d) definition of hazardous waste (HW) is addressed in Chapter 12. Management of storage tanks is addressed in Chapter 16, and shipboard oil pollution abatement is addressed in Chapter 19.

9-1.3 **References.** Relevant references are:

a. 33 CFR 154, Oil Pollution Prevention Regulations for Marine Oil Transfer Facilities;

b. 40 CFR 110, Discharge of Oil;

c. 40 CFR 112, Oil Pollution Prevention;

d. 40 CFR 260-266, Hazardous Waste Management System;

e. 40 CFR 270, Standards for Used Oil Processors and Refiners;

f. 40 CFR 279, Standards for the Management of Used Oil;

g. 49 CFR 110, Hazardous Materials Public Sector Training and Planning Grants;

h. 49 CFR 171 (Subchapter C), Hazardous Materials Regulations;

i. 49 CFR 174, Carriage by Rail;

j. 49 CFR 176, Carriage by Vessel;

k. 49 CFR 194, Response Plans for Onshore Oil Pipelines;

l. 49 CFR 195, Transportation of Hazardous Liquids by Pipeline;

m. NFESC 7-03, Oil Spill Prevention Control and Countermeasures Planning Manual (NOTAL).

9-2 Legislation

9-2.1 **Federal Water Pollution Control Act as amended by the Clean Water Act of 1977 (CWA).** Requires Federal activity compliance with applicable requirements concerning the control of oil pollution. Prohibits the discharge of oil into any surface waters of the U.S., if the discharge violates applicable water quality standards or effluent standards or causes a sheen on, or film upon, or discoloration of the surface of the water or adjoining shorelines, or causes a sludge or emulsion to be deposited beneath the surface of the water, or upon the shoreline.

9-2.2 **Military Construction Codification Act, Section 6.** Contains a provision that allows net proceeds from the sale of recyclable materials (including used oil) to be used by Navy activities for certain purposes.

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9-2.3 Oil Pollution Act of 1990 (OPA 90). Amends Section 311 of the CWA to clarify Federal response authority, increase penalties for spills, establish United States Coast Guard (USCG) response organizations, require tank vessel and facility response plans, and provide for contingency planning in designated areas. The OPA 90 provides new contingency planning requirements for both government and industry and establishes new construction, manning, and licensing requirements for tank vessels. The OPA 90 also increases penalties for regulatory noncompliance, broadens the response and enforcement authorities of the Federal government, and preserves State authority to establish laws governing oil spill prevention, response, and periodic drills and exercises.

9-3 Terms and Definitions

9-3.1 Boiler. An enclosed device using controlled flame combustion and having the following characteristics:

a. The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

b. The unit's combustion chamber and primary energy recovery section(s) must be of integral design, i.e., the combustion chamber and primary energy recovery section(s) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section(s). The following units are not precluded from being boilers: process heaters (units that directly transfer energy to a process stream), and fluidized bed combustion units; and

c. While in operation, the unit must maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

d. The unit must export and utilize at least 75 percent of the recovered energy calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. (For example, preheating fuel or combustion air, driving induced or forced draft fans or feeding water pumps); or

e. The unit is one that the Environmental Protection Agency (EPA) Regional Administrator has determined on a case-by-case basis, to be a boiler, after considering the standards in reference (d), Subpart C, Part 260.32, Variances To Be Classified As A Boiler.

9-3.2 Bulk-oil Tank. Any permanent, stationary container designed to store an accumulation of, or process oil that is constructed of non-earthen materials that provide structural support.

9-3.3 Industrial Furnace. Any of the following enclosed devices that are integral components of manufacturing processes and use controlled flame devices to accomplish recovery of materials or energy:

a. Cement kilns

b. Lime kilns

c. Aggregate kilns

d. Phosphate kilns

e. Coke ovens

f. Blast furnaces

g. Smelting, melting and refining furnaces (including pyrometallurgical devices such as

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cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces)

h. Titanium dioxide chloride process oxidation reactors

i. Methane reforming furnaces

j. Pulping liquor recovery furnaces

k. Combustion devices used in the recovery of sulfur values from spent sulfuric acid

l. Such other devices as the EPA Administrator may, after notice and comment, add to this list on the basis of one or more of the factors described in reference (d), Subpart B, Part 260.10.

9-3.4 Lubricating (Lube) Oil. Crankcase oil, cutting oil, gear lubricant, metal-working lubricant, hydraulic oil, and transmission fluid.

9-3.5 Navigable Waters. As defined in reference (b), Section 110.1, "*Navigable Waters*" means the waters of the United States, including the territorial seas. The term includes:

a. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide.

b. Interstate waters, including interstate wetlands.

c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, and wetlands, the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

(1) That are or could be used by interstate or foreign travelers for recreational or other purposes.

(2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(3) That are used or could be used for industrial purposes by industries in interstate commerce.

d. All impoundments of waters otherwise defined as navigable waters under this section.

e. Tributaries of waters identified in paragraphs a-d of this section, including adjacent wetlands.

f. Wetlands adjacent to waters identified in paragraphs a-e of this section: Provided, "That waste treatment systems (other than cooling ponds meeting the criteria of this paragraph) are not waters of the United States...."

9-3.6 Off Specification Used Oil. Used oil that is not mixed with HW and that has constituents and properties, as determined by tests, that exceed the specified limits set in Table 1, reference (f).

9-3.7 Oil. As defined by OPA 90, Section 1001, "oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil, but does not include petroleum, including crude oil or any fraction thereof, that is specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601) and which is subject to the provisions of that Act.

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NOTE:

This definition includes vegetable oil.

9-3.8 On Specification Used Oil. Used oil that is not mixed with HW and that has constituents and properties, as determined by tests, that do not exceed the specified limits set in Table 1, reference (f).

9-3.9 Processing. Any chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived products. Processing includes, but is not limited to: blending used oil with virgin petroleum products, blending used oil to meet the fuel specification, filtration, simple distillation, chemical or physical separation and re-refining.

9-3.10 Reclaimed. A material is reclaimed if it is processed to recover a usable product, or if it is regenerated.

9-3.11 Recycled. A material is recycled if it is used, reused, or reclaimed.

9-3.12 Transportation or Non-Transportation Related Oil Storage Facilities. Shore activities with oil storage facilities are classified as either transportation-related or non-transportation-related. Transportation-related facilities are primarily involved with bulk oil transfer. Bulk oil transfer includes transferring oil from stationary storage tanks to tanker ships, highway tankers, and railroad tank cars for transport to off-site locations. Non-transportation-related facilities are primarily involved in fuel storage for on site use.

9-3.13 Used Oil. Any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

9-3.14 Used Oil Generator. Any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

9-3.15 Used Oil Management Plan. A document that identifies sources of used oils, primary used oil segregation groups, recycling options, and detailed operational requirements for a specific Navy facility or facilities. (May be incorporated into or referenced in installation Hazardous Material Management Plan, or Pollution Prevention Plan.)

9-3.16 Used Oil Processor. A facility that processes used oil.

9-3.17 Used Oil Transfer Facility. Any transportation-related facility including loading docks, parking areas, storage areas and other areas where shipments of used oil are held for more that 24 hours and not longer that 35 days during the normal course of transportation, or prior to an activity performed under reference (f), Section 279.20(b)(2). Transfer facilities that store used oil for more than 35 days are subject to regulation under reference (e).

9-3.18 Used Oil Transporter. Any person who transports used oil, any person who collects used oil from more than one generator and transports the collected oil, and owners and operators of used oil transfer facilities. Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation but, with the following exception, may not process used oil. Transporters may conduct incidental processing operations that occur in the normal course of used oil transportation (e.g., settling and water separation), but are not designed to produce (or make more amenable for production of) used oil derived products or used oil fuel.

9-4 Requirements

9-4.1 Oil Storage Facilities. Transportation-related facilities serving vessels are subject to current USCG regulations. Through reference

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(a), the USCG requires facility operation manuals for applicable marine transportation-related facilities. These regulations, which apply to all components of DoD, address aspects of the design and operation of on-shore and off-shore facilities that are engaged in the transfer of bulk oil to and from vessels.

EPA, through reference (c), requires spill prevention plans for applicable onshore non-transportation-related facilities.

The Research and Special Programs Administration (RSPA), under reference (k) requires response plans for onshore transportation-related facilities, namely pipelines and tank trucks that leave naval facilities. See 10-4.1.

9-4.2 Spill Prevention Control and Countermeasure (SPCC) Plans

9-4.2.1 Non-transportation-related facilities will have a SPCC Plan that provides a history of oil spill events, the potential for discharge of oil, as well as containment procedures and equipment to prevent oil spills into or upon a navigable waterway or shoreline of the U.S. SPCC plans must initially be certified by a registered professional engineer in the State with jurisdiction, and must be reviewed and evaluated. Based on the review and evaluation, facilities will amend SPCC plans within 6 months of the review. SPCC plans must be updated on a triennial basis and signed by a registered professional engineer (PE); except foreign-based activities that, according to the Overseas Baseline Guidance Document (OEBGD), must be updated and reviewed every 5 years and signed by a registered Professional Engineer (PE).

9-4.2.2 SPCC plans are not required if the facility has an aggregate unburied storage capacity of 1,320 gallons or less of oil, (provided no single container capacity exceeds 660 gallons) has a total underground storage capacity of 42,000 gallons or less, or could not reasonably be expected to discharge oil into or upon the navigable waters of the U.S. or adjoining shorelines because of the location of the facility. Facilities that have experienced a spill into navigable waters of 1,000 gallons, or two reportable spills into navigable waters in any 12-month period, are required to submit SPCC plans to the EPA Regional Administrator under reference (c) within 60 days following such a spill.

9-4.2.3 New shore activities will prepare SPCC plans within 6 months of first operation and implement SPCC plans no later than 1 year after beginning operations. SPCC plans will be reviewed and implemented within 6 months of a change in facility design, operation or maintenance, or the construction, completion and acceptance of a new facility that materially effects the facility's potential for the discharge of oil to navigable waters or adjoining shoreline.

9-4.2.4 SPCC plans will be maintained at the facility and be available to EPA Regional Administrators or their designated representatives, and State and local agencies for on-site review during normal working hours.

9-4.3 Used Oil Recycling. DoD policy memoranda direct military departments to maximize the segregation, recycling and reuse of used oils, and to comply with Resource Conservation and Recovery Act (RCRA) regulations.

9-4.4 Used Oil Fuels Burned for Energy Recovery

9-4.4.1 Used oil to be burned for energy recovery must be tested. The used oil will be subject to regulation under reference (f) unless it is shown that the constituents and properties of the used oil do not exceed the allowable limits specified in Part 279.11. Used oil that does not have constituents and properties that exceed specification, i.e., the allowable limits set by Table 1 in Part 279.11, is not regulated under Part 279. However, the specification standard does not apply to mixtures of used oil and HW that continue to be regulated

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as HW according to Part 279. Also, used oil containing more that 1,000 parts per million total halogens is presumed to be a HW under Part 279.10(b)(1) unless it can be shown that the used oil does not contain HW using acceptable analytical methods.

9-4.4.2 Included in Part 279 are standards for used oil generators, transporters, transfer facilities, processors, marketers, and burners burning off-specification used oil for energy recovery. Part 279 also contains specific spill prevention and contingency planning requirements for used oil storage, transfer and processing facilities.

9-4.4.3 Used oil that is mixed with a HW or HWs identified as such under reference (d), Subpart C, Characteristics of Hazardous Waste or under Subpart D, Lists of Hazardous Wastes, is subject to regulation as a HW (under reference (d)) if the mixture exhibits any characteristics of HW as identified in Subpart C. Reference (f) prescribes specific provisions as to the applicability of the RCRA regulations to the management and use of used oil. Burning used oil that is a HW solely because it exhibits a characteristic of HW is subject to standards set forth in reference (f). The management and use of used oil, whether or not the used oil exhibits any characteristics of a HW, are regulated under reference (f).

9-4.4.4 Synthetic oils, fluids, and lubricants must be segregated from the crude-oil-derived used oil.

9-4.4.5 EPA must be notified by persons marketing or burning HW fuel, specification used oil fuel and off specifications used oil fuel. The sale of regulated fuels by the Defense Reutilization and Marketing Office (DRMO) is marketing; the transfer of regulated fuels between the various DoD components and activities is not.

9-4.5 **Prohibited Uses of Used Oil.** Used oils will not be used for environmentally unacceptable purposes such as weed control, insect control, road surfacing, dust control, or open pit burning.

9-5 Navy Policy

9-5.1 Navy Shore Facilities OPA 90 Compliance. Naval facilities shall use EPA regulation reference (c) in developing non-transportation-related facility response plans. USCG interim final regulation, reference (a) shall be used to develop response plans for marine transportation-related facilities. RSPA regulations references (h), (i) and (k) shall be used to develop response plans for off-base transportation pipelines and bulk packagings. Normally one response plan shall be developed to address the requirements of all applicable response planning requirements, since most naval facilities are "complex" facilities under the OPA 90 regulations. The SPCC plan shall be a separate document. See Chapter 10 for specific details on developing facility response plans.

9-5.2 Oil Storage Facilities. Navy policy shall be to meet USCG and EPA oil pollution prevention regulations pertaining to transportation-related and non-transportation-related facilities and to exceed those regulations wherever practicable.

9-5.3 Used Oil Recycling. Oil shall be recycled and reused within the Navy whenever technically and environmentally feasible and when environmentally acceptable. Navy policy is to recycle used oil per Federal, State and local regulations.

9-5.3.1 Military personnel and civilian employees shall be encouraged to collect used lube (crankcase) oil from personal vehicles for recycling via Navy installation, local, or regional used oil recycling programs.

9-5.3.2 If recycling of used lube oil is not feasible for economic reasons, the lube oil may be burned as a fuel or fuel supplement, provided appropriate chemical and economic analyses are made to determine suitability of burning as well as compliance with air pollution control requirements (Chapter 5) and HW regulations (Chapter 12).

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9-5.3.3 When allowed by military used oil specifications, large installations or complexes shall consider closed loop used lube oil re-refining by commercial re-refiners.

9-5.3.4 Net proceeds from the sale of used oil shall be used by a Navy generating installation that has a qualified recycling program (QRP) for certain purposes as specified in Chapter 14.

9-5.4 SPCC plans shall be developed as described in paragraph 9-4.2 and shall be prepared per Federal, State, and local requirements.

9-6 Responsibilities

9-6.1 COMNAVFACENGCOM shall:

a. Provide technical advice and prepare revisions to reference (m) to assist shore activities in the preparation of SPCC plans.

b. Provide technical and administrative guidance associated with the collection, segregation, re-refining and disposal of used lubricating oil.

c. Provide technical and administrative guidance associated with the collection, segregation, re-refining and disposal of used contaminated fuels.

d. Provide technical advice and prepare appropriate manuals or other forms of guidance for used oil management.

9-6.2 COMNAVSUPSYSCOM shall provide technical and administrative guidance to Navy shore activities concerning USCG and EPA regulations.

9-6.3 Major claimants shall ensure that shore activities meet EPA requirements related to the prevention of oil spills and the preparation and review of SPCC plans.

9-6.4 Commanding officers of shore activities shall:

a. Ensure that activity SPCC plans are prepared per Federal, State, and local requirements, and that such plans are implemented, and reviewed within prescribed time frames.

b. Identify and submit, under Chapter 1, environmental compliance projects required for implementation of the activity SPCC plan.

c. Comply with Federal, State, and local requirements concerning oil pollution and used oil fuels for energy recovery.

d. Establish and maintain a used oil recycling program.

e. Comply with USCG and Research and Special Projects Office (RSPA) regulations for transportation-related oil storage facilities and EPA for non-transportation-related facilities.

f. Ensure that facility operations manuals are prepared, maintained, and submitted per USCG guidance reference (a).

g. Comply with OPA 90 requirements to prepare facility response plans, as discussed in Chapter 10.

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CHAPTER 10

OIL AND HAZARDOUS SUBSTANCES CONTINGENCY PLANNING

10-1 Scope

This chapter identifies the requirements for the Navy to plan for, and respond to, oil discharges and hazardous substance (HS) releases (OHS spills) from Navy ships and shore facilities worldwide. Navy response to both its own spills and non-Navy spills is summarized in this chapter. The comprehensive management of hazardous materials (HM) and hazardous waste (HW) is described in Chapter 12. The prevention and minimization of oil pollution at shore facilities and aboard ships is discussed in Chapters 9 and 19, respectively. Navy policy for overseas activities is discussed in Chapter 18.

10-1.1 References. Relevant references are:

a. 29 CFR 1910.120, Hazardous Waste and Emergency Response;

b. 33 CFR 150 and 154, Response Plans for Marine Transportation-related Facilities;

c. 40 CFR 109, Criteria for State, Local, and Regional Oil Removal Contingency Plans;

d. 40 CFR 110, Discharge of Oil;

e. 40 CFR 112, Oil Pollution Prevention;

f. 40 CFR 113, Liability Limits for Small Onshore Oil Storage Facilities;

g. 40 CFR 117, Determination of Reportable Quantities for Hazardous Substances;

h. 40 CFR 252, Guidelines for Federal Procurement of Lubricating Oils;

i. 40 CFR 300, National Oil and Hazardous Substances Pollution Contingency Plan;

j. 40 CFR 302, Designation, Reportable Quantities, and Notification;

k. 40 CFR 355, Emergency Planning and Notification;

l. 49 CFR 170-176, Oil Spill Prevention and Response Plans for Mobile Facilities;

m. 49 CFR 194, Response Plans for Onshore Oil Pipelines;

n. 49 CFR 250, Response Plans for Offshore Oil Pipelines;

o. DoD Directive 5030.41 of 1 June 1977, Oil and Hazardous Substance Pollution Prevention and Contingency Planning; (NOTAL)

p. OPNAVINST 5400.24D, Jurisdiction of Area Coordinator; (NOTAL)

q. MARPOL Regulation 26, Navigation and Vessel Inspection Circular No. 2-93 (Mar 5, 1993), USCG, (NOTAL).

10-2 Legislation

10-2.1 Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). CERCLA, as amended by the Superfund Amendments and Reauthorization Act (SARA), requires the Environmental Protection Agency (EPA) to issue revisions to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The NCP establishes the process for determining appropriate removal and/or remedial action for the nation's most serious (Superfund)

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waste disposal sites. Additionally, the NCP establishes the national framework for planning and response to oil discharges and HS releases. The NCP assigns responsibilities for OHS spill contingency planning and response to various Federal agencies, including DoD, and outlines State and local government and public and private interest group participation in these areas. The NCP also identifies Federal natural resource trustees that include DoD.

10-2.2 Emergency Planning and Community Right-to-Know Act (EPCRA). EPCRA focuses on the hazards associated with toxic chemical releases. Most notably, specific sections of EPCRA require immediate notification of off-site releases exceeding reportable quantities of extremely hazardous substances (EHS) and CERCLA-defined HS to State Emergency Response Commissions (SERCs) and Local Emergency Planning Committees (LEPCs). See paragraph 4-5.1 for specific compliance requirements relative to the Navy.

10-2.3 Federal Water Pollution Control Act as amended by the Clean Water Act of 1977 (CWA). The CWA is the major Federal statute addressing improvement of the nation's water resources. Section 311 of the CWA deals with the prevention of, and response to, OHS spills into or upon the navigable waters or the contiguous zone. The CWA prohibits OHS discharges in quantities that are determined to be harmful to the public health or the environment. Oil discharges should be handled per applicable laws and regulations including reporting requirements for harmful discharges under reference (d). Any person in charge of a vessel or an onshore facility who has knowledge that such a discharge has occurred is required to immediately notify the appropriate Federal agency.

10-2.4 Occupational Safety and Health Act. The Occupational Safety and Health Act requires various levels of training for personnel involved in HW cleanup and emergency response operations (see Figure 24.1).

10-2.5 Oil Pollution Act of 1990 (OPA 90). OPA 90 amends Section 311 of the CWA to strengthen the National Response System, clarify Federal response authority, increase penalties for spills, require tank vessel and facility response plans, and provide for additional prevention and preparedness measures in designated areas. OPA 90 provides new requirements for spill response planning and training, drills and exercises for both government and industry. OPA 90 establishes new construction, manning, and licensing requirements for tank vessels. Public vessels are exempt from the provisions of OPA 90, but under CNO policy, Navy shore facilities must comply. OPA 90 broadens the response and enforcement authority of the Federal government, preserves State authority to establish laws governing oil spill prevention and response, and requires identification of a qualified individual to initiate responses and to access funds. OPA 90 also provides for natural resource trustees to act on the behalf of the public to assess the damages and to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the natural resources under their trusteeship in the event natural resources are injured, lost, destroyed, or the loss of the use of natural resources occurs as a result of a discharge of oil (covered by OPA 90). For additional discussion of trustee responsibilities and natural resource issues, refer to Chapter 22.

10-2.6 Resource Conservation and Recovery Act (RCRA). RCRA was established to protect human health and the environment from the hazards associated with solid wastes and HW generation, transportation, treatment, storage and disposal. Subtitle C of RCRA imposes specific requirements for developing spill contingency plans on the owners and operators of HW facilities. The requirements must be included in a facility HW management plan. Navy regional and local OHS pollution contingency plans address HS

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releases in a broader context and are not restricted to HW operations.

10-2.7 State and Local Programs. State programs requiring OHS spill prevention, preparedness, and response vary widely. All States require notification of State and local authorities of OHS spills. Certain States, and coastal States in particular, have stringent requirements for vessel and facility spill response plans and prevention measures that exceed Federal standards. DoD facilities, including Navy facilities, are subject to State and local facility prevention and response planning requirements. Naval vessel response plans must meet the requirements of 10-5.3.2 and are not subject to State requirements. Vessel response plans may be provided to State regulators for their information.

10-3 Terms and Definitions

10-3.1 Area Committees. Comprised of members appointed by the President from qualified personnel of Federal, State and local agencies. Each Area Committee is responsible for preparing an Area Contingency Plan and working with State and local officials to assure pre-planning of joint response efforts.

10-3.2 Area Contingency Plans (ACP). A plan prepared by the Area Committee that includes worst case scenarios and lists of equipment and personnel available for the removal of worst case spills. ACPs also identify and prioritize sensitive areas and natural resources, identify strategies for protection, and provide for pre-approval of application of specific countermeasures or removal actions within the planning area. In the case of an oil spill, an ACP would be implemented in conjunction with the amended NCP.

10-3.3 Contiguous Zone. A zone of the high seas, established by the U.S. under the Convention on the Territorial Sea and Contiguous Zone, that is contiguous to the territorial sea and that extends 9 nautical miles (nm) seaward from the outer limit of the territorial sea.

10-3.4 Discharge. As defined by the CWA, includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping of oil. It excludes:

a. Discharges per a permit under the CWA

b. Discharges resulting from circumstances identified and reviewed and made a part of the public record with respect to a permit issued or modified under the CWA, and subject to a condition in such permit

c. Continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under the CWA, that are caused by events occurring within the scope of relevant operating or treatment systems.

For NCP purposes, discharge also means threat of discharge.

10-3.5 Dispersant. Chemical agents that emulsify, disperse, or solubilize oil into the water column or promote the surface spreading of oil slicks to facilitate dispersal of the oil into the water column.

10-3.6 Emergency Response Coordinator (ERC)/Qualified Individual (QI). A designated individual identified in the Oil and Hazardous Substance Facility Response Plan (OHSFRP) who:

a. Is available on a 24-hour basis and able to arrive at the facility in a reasonable time

b. Is familiar with the implementation of the OHSFRP

c. Is trained in the responsibilities of the QI/ERC under the OHSFRP

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d. Has authority to activate the oil spill removal organization

e. Has authority to direct the obligation of funds required to carry out response activities

f. Will act as a liaison with the predesignated Federal on-scene coordinator (OSC).

QI is the term used by the U.S. Coast Guard (USCG) and ERC is the term used in EPA regulations.

10-3.7 Exclusive Economic Zone (EEZ). A zone extending 200 nm from the territorial sea baseline, unless a maritime boundary with another country is closer than 200 nm.

10-3.8 Facility. For OHS response planning, a facility is an activity or complex required to submit an OHSFRP under the OPA 90 implementing regulations. A Navy On-Scene Coordinator (NOSC) may combine adjacent activities within a geographic area so that one OHSFRP submitted by a Facility Incident Commander (FIC) will meet the regulatory requirements for all activities in that area. The assignment of facility designations should consider those factors that will insure the most effective and economical response to an OHS release. See paragraph 1-2.14 Host/Tenant Agreements for additional guidance.

10-3.9 Facility Incident Commander (FIC). Commanders or commanding officers (COs) of designated naval shore facilities or complexes predesignated by the cognizant NOSC and required to prepare an OHSFRP covering the area assigned by the NOSC. FIC designations are made on the basis of OHS spill risk and response capability of the command to ensure rapid, effective response to OHS spills within the assigned area. The FIC replaces the Navy On-Scene Commander (NOSCDR) defined in earlier instructions to more accurately reflect assigned duties under OPA 90, and to effectively interface with the Federal OSC Incident Command System (ICS). The FIC will act as the QI for spills originating from within the assigned area and direct all Navy response action until relieved, if necessary, by the NOSC.

10-3.10 Federal On-Scene Coordinator (Federal OSC). The Federal OSC is the Federal official predesignated by EPA or the USCG to coordinate and direct Federal responses under the NCP, except for DoD HS releases. In the case of HS releases from DoD facilities or vessels, the Federal OSC is predesignated by DoD. The NOSC is the Federal OSC for Navy HS releases.

10-3.11 Foreign Areas. All countries except the U.S., its territories, and possessions.

10-3.12 Hazardous Substance. As defined by CERCLA, means:

a. Any substance so designated by the CWA.

b. Any element, compound, mixture, solution, or substance so designated by CERCLA.

c. Any solid waste (SW) having the characteristics of, or listed as, a HW as defined under RCRA (but not including any waste that has been suspended by Act of Congress).

d. Any toxic pollutant listed under the Clean Air Act (CAA).

e. Any imminently hazardous chemical substance or mixture with respect to which the Administrator of the EPA has taken action under the Toxic Substances Control Act (TSCA).

The term does not include petroleum, including crude oil, or any refined product (such as gasoline, diesel, or fuel oil) that is not otherwise specifically listed or designated as a HS. A HS does not include natural gas, natural gas liquids, liquified natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic

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gas), unless otherwise defined by State regulations.

10-3.13 Incident Command System (ICS). A response structure required by the Occupational Safety and Health Administration (OSHA) to be used by all organizations when responding to any emergency. It consists of an individual in charge of the incident (Incident Commander) and four functional groups (Operation, Logistics, Planning and Finance) that support the Incident Commander. During major oil spills the Federal agencies will establish an ICS under the National Response System. The State may also establish an ICS. When the Navy is the responsible party, and works jointly with the State and other Federal agencies, the entire organization is called the Unified Command System (UCS). The Navy Incident Commander, the State OSC, and the Federal OSC are collectively known as the Unified Command (UC).

10-3.14 Navy On-Scene Coordinator (NOSC). The NOSC is the Navy official predesignated to coordinate Navy OHS pollution contingency planning and direct Navy OHS pollution response efforts in a preassigned area. Shoreside NOSCs are normally regional environmental coordinators predesignated by the area environmental coordinators (AECs) (see Chapter 1). Fleet NOSCs are normally the numbered fleet commanders who direct fleet operations within assigned ocean areas. The NOSC is the Federal OSC for Navy HS releases. The NOSC will act as the QI and incident commander for spills outside areas assigned to FICs, and as incident commander for spills beyond the capability of a FIC.

10-3.15 National Contingency Plan (NCP). The National Oil and Hazardous Substances Pollution Contingency Plan provides the legal framework for Federal government OHS pollution contingency planning and response above the facility level. The NCP describes the National Response Team, the Regional Response Team, and the National Response Center, and designates the roles and responsibilities of DoD.

10-3.16 National Response Center (NRC). The 24-hour OHS spill notification center, located at USCG headquarters in Washington, D.C. The NRC is the single Federal notification point (outside the Navy chain of command) for emergency spill response, and no further Federal notifications are necessary. The NRC is responsible for notifying the predesignated Federal OSC of reported OHS pollution incidents.

10-3.17 National Response Team (NRT). The Federal response organization, consisting of the 15 Federal agencies shown on Figure 10.1, including DoD, was established to coordinate OHS spill planning and response efforts. The NRT is chaired by the EPA, with the USCG providing the vice chair.

10-3.18 Navigable Waters. As defined in reference (d), Section 110.1, "*Navigable Waters*" means the waters of the United States, including the territorial seas. The term includes:

a. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide.

b. Interstate waters, including interstate wetlands.

c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, and wetlands, the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

(1) That are or could be used by interstate or foreign travelers for recreational or other purposes

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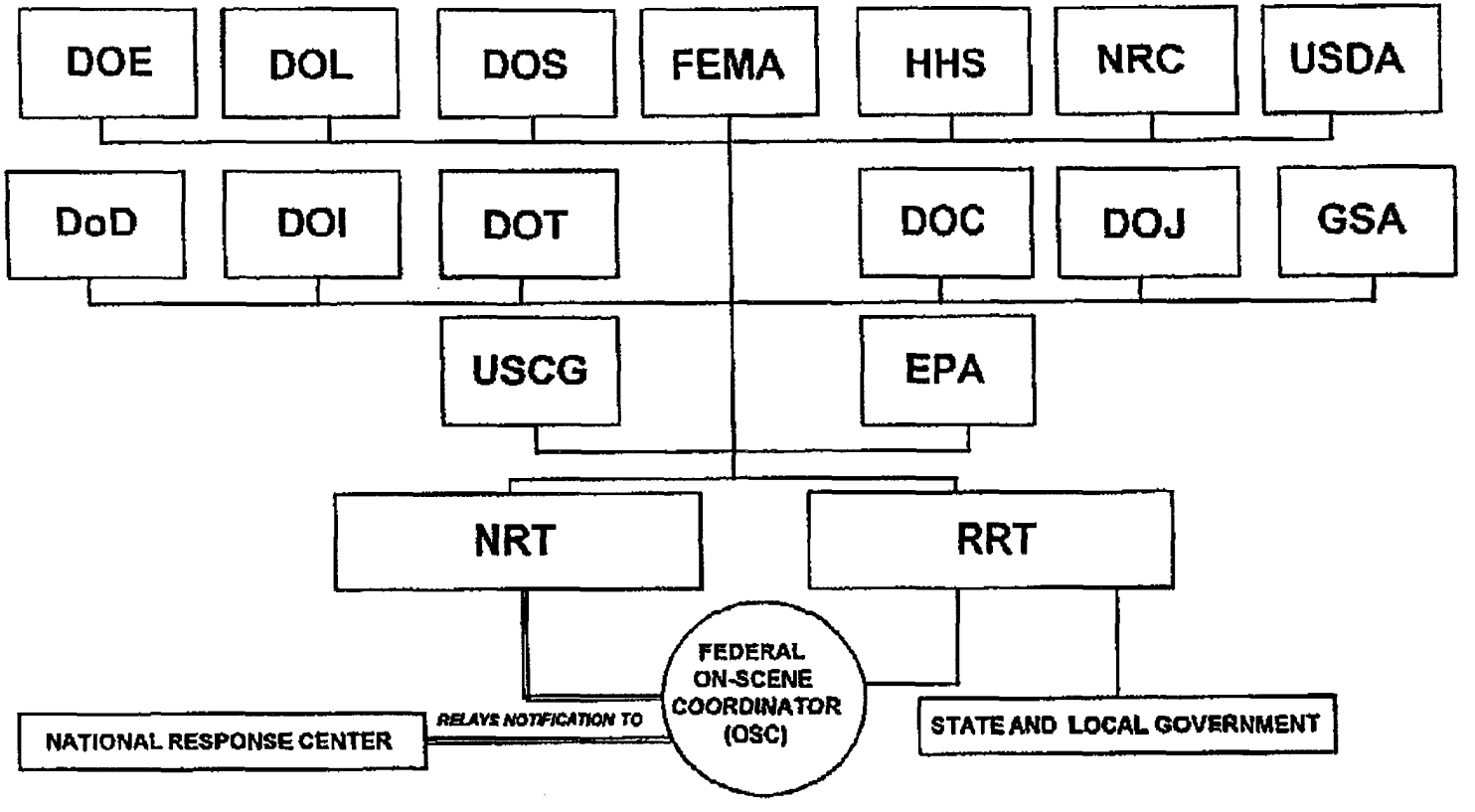
NATIONAL CONTINGENCY PLAN CONCEPT



DOC - Department of Commerce
DoD - Department of Defense
DOE - Department of Energy
DOI - Department of Interior
DOJ - Department of Justice
DOL - Department of Labor
DOS - Department of State
DOT - Department of Transportation
EPA - Environmental Protection Agency
FEMA - Federal Emergency Management Agency
GSA - General Services Administration
HHS - Department of Health and Human Services
NRC - Nuclear Regulatory Commission
NRT - National Response Team
RRT - Regional Response Team
USDA - U.S. Department of Agriculture
USCG - U.S. Coast Guard

Figure 10-1

(2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce

(3) That are used or could be used for industrial purposes by industries in interstate commerce.

d. All impoundments of waters otherwise defined as navigable waters under this section

e. Tributaries of waters identified in paragraphs 10-3.18a through d of this section, including adjacent wetlands

f. Wetlands adjacent to waters identified in paragraphs 10-3.18a through e of this section: Provided, "That waste treatment systems (other than cooling ponds meeting the criteria of this paragraph) are not waters of the United States....".

10-3.19 NOSC Response Plans. A plan developed by the NOSC to respond to Navy OHS spill incidents within their assigned area that are either beyond the capability of a facility, or ship, or outside the area assigned to a facility.

10-3.20 Oil. Oil, as defined by the CWA, means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil. In practice, this includes refined products such as gasoline, diesel, and jet fuel.

10-3.21 Oil and Hazardous Substances Facility Response Plans. Plans required by OPA 90 that provide a plan of action for tiered spill scenarios, identify notification procedures, response and cleanup operations, response capabilities, management information, sensitive areas and protection strategies per ACPs, and measures to protect human health and safety.

10-3.22 Public Vessel. Owned or bareboat-chartered and operated by the U.S., or by a State or political sub-division thereof, or by a foreign nation, except when such vessel is engaged in commerce.

10-3.23 Regional Contingency Plans (RCPs). Developed by the RRTs, RCPs provide guidance on how the OSC can obtain assistance from within the region for incidents beyond the capability of an ACP. The RCP sets forth the provisions for use of alternative response techniques.

10-3.24 Regional Response Team (RRT). The Federal response network under the NRT, consisting of regional Federal agency and State representatives. There are 13 RRTs, one for each of the 10 standard Federal regions, and one each for Alaska, Oceana (Hawaii and the U.S. Pacific islands), and U.S. Caribbean islands. The RRT has the authority to approve or disapprove the use of alternative techniques, such as the use of dispersants, in-situ burning, and bioremediation.

10-3.25 Release. As defined by CERCLA, means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any HS or pollutant or contaminant). On water, an oil release occurs when there is a visible sheen. It excludes:

a. Any release that results in exposure to persons solely within a work place, with respect to a claim that such persons may assert against the employer of such persons.

b. Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine.

c. Release of source, byproduct, or special nuclear material from a nuclear incident if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission or any release of source,

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byproduct, or special nuclear material from any processing site designated under the Uranium Mill Tailings Radiation Control Act of 1978.

d. The normal application of fertilizer and herbicides.

For NCP purposes, release also means threat of release.

10-3.25.1 Federally Permitted Release. As defined in CERCLA, discharges in compliance with Federal laws including the CWA, the CAA, the Solid Waste Disposal Act (SWDA), the Marine Protection, Research, and Sanctuaries Act (MPRSA), and the Atomic Energy Act. Federally permitted releases also include any injection of fluid authorized under Federal underground injection controls or State programs submitted for Federal approval, and any injections of fluid or other material authorized under applicable State law associated with crude oil or natural gas production.

10-3.26 Reportable Quantity. A release of a CERCLA-listed HS or an EPCRA-listed EHS exceeding the limit for that substance. HS or EHS releases that equal or exceed these limits must be reported immediately to Federal, State, and local authorities.

10-3.27 Territorial Seas. The zone established by the U.S. under the Convention on the Territorial Sea and Contiguous Zone. For the purposes of this chapter, the territorial sea extends 3 nm seaward from the mean low water line of the U.S. shoreline. (This definition is applicable to most Federal legislation passed before 1989. For international law purposes, however, the "territorial sea" extends out 12 nm.)

10-3.28 Twelve Nautical Mile Zone. Contains the Territorial Sea Zone plus the Contiguous Zone and equals 12 nm.

10-3.29 United States (U.S.). U.S. includes the States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands, and any other territory or possession over which the U.S. has jurisdiction.

10-3.30 Vessel. As defined in the CWA and related Federal regulations, every type of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters of the U.S.

10-4 Requirements

10-4.1 Facility Response Plans (FRP). OHS FRPs are required to be submitted by a broad range of activities. Four Federal agencies regulate the different categories of facilities required to submit FRPs. The USCG regulates deepwater ports and marine transportation-related (MTR) facilities. These regulations are specified in reference (b). EPA regulates non-transportation-related onshore facilities and these regulations are found in reference (e). The Department of Transportation's Research and Special Programs Administration (RSPA) regulates mobile facilities (tank trucks, railroad cars, and portable tanks) and these regulations are found in reference (l). RSPA also regulates offshore facilities and pipelines. The regulations for these facilities are found in reference (n). The Minerals Management Service (MMS) regulates offshore platforms.

Most Navy facilities fall under either USCG or EPA jurisdiction. Facilities that meet the criteria for more than one type of facility are called "complex facilities." Many Navy facilities fall under this category. A few Navy facilities may also fall under the RSPA's jurisdiction for pipelines that leave the facility. Additionally, there may be some Navy facilities that fall under RSPA's jurisdiction for mobile sources. No facility is required to have more than one OHSFRP. However, that OHSFRP must be

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submitted to every Federal agency that has jurisdiction over that facility. The requirements for the OHSFRP vary widely depending on the type of facility. For example, the information required for a mobile facility is not as extensive as that required for a non-transportation-related facility. There are certain key elements common to all regulations. These include:

a. An individual who can be reached on a 24-hour basis and has the authority to take necessary response action

b. An emergency section of the plan that provides a concise response citation

c. Extensive drills and exercise requirements with specified documentation and record-keeping

d. A provision for regular updates and reviews.

10-4.2 Notification for OHS Pollution Incidents in U.S. Waters. CERCLA and the CWA specify that all reportable quantity OHS discharges or releases occurring within U.S. waters be immediately reported directly to the NRC at USCG headquarters at 1-800-424-8802 or 202-267-2675 by voice communication. An incident or casualty that raises the probability of a discharge or release will also be reported to the NRC. NRC notification will not be delayed for lack of information. Immediate voice notification to the NRC fulfills Federal notification requirements and ensures that the predesignated EPA or USCG Federal OSC will be notified. If the NRC cannot be reached by voice immediately, then the spiller/spill discoverer is required to immediately notify the closest EPA office or USCG station.

EPCRA requires that reportable quantity EHS and OHS releases outside the facility boundary or to the atmosphere be reported to State Emergency Response Commissions (SERCs) and Local Emergency Planning Committees (LEPCs) (see paragraph 4-5.1). Reportable quantity OHS spills occurring within State waters, or with the potential to impact the U.S. shoreline, must be reported to applicable State environmental authorities by voice where required by State statute. Periodic follow-up reports and after-action reports must also be made where required.

10-4.3 Internal Navy Reporting. Shoreside NOSCs, along with other affected Navy commands, will be notified as follows:

a. All OHS spills will be reported immediately to the applicable Navy facility by voice communication, followed by a confirming OHS spill report via message (Appendices H and I).

b. For situations where spills occur outside pre-assigned Navy facility jurisdiction, or where such jurisdiction cannot be determined, the cognizant NOSC will be notified by voice and then by message report. Facilities will notify the cognizant NOSC as specified in the NOSC Regional Response Plan.

c. For OHS spills with the potential to cross NOSC boundaries, all affected NOSCs will be notified.

10-4.4 OHS Spill Notification for Non-U.S. Waters. Under international agreements, OHS spills that impact, or have the potential to impact a foreign shoreline, or any incident or casualty that might result in a spill, must immediately be reported to the nearest affected nation. Spills that impact or have the potential to impact shorelines of Canada or Mexico fall within the scope of U.S./Canada and U.S./Mexico bilateral agreements and must also be reported immediately to the NRC. Additionally, OHS spills in Puerto Rico, the Panama Canal Zone, and the U.S. Virgin Islands must also be reported to the NRC.

10-4.5 OHS Pollution Response. CWA and CERCLA prohibit the discharge of oil in harmful quantities and HS in reportable quantities into

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U.S. waters. When discharges or releases by a Federal agency do accidentally occur, the responsible party must take all necessary actions to remove the oil or HS and mitigate adverse environmental impacts (see paragraph 10-5.1). The roles and responsibilities of the DoD in responding to DoD OHS spills are explained in the NCP. For DoD HS releases, the DoD assumes the role of the Federal OSC. As a Federal OSC, the DoD is required to direct the Federal response effort, including coordination with the RRT and with other Federal, State, and local authorities.

For oil discharges from DoD facilities or vessels, the DoD is responsible for cleaning up the oil, minimizing the damage, and assessing and mitigating the injury to national resources. However, in this case, either EPA or the USCG assumes the broader role of the Federal OSC. Typically, the EPA or USCG Federal OSC will monitor the response efforts of the DoD and advise DoD of appropriate actions. If the EPA or USCG Federal OSC determines that DoD response is inadequate or inappropriate, then the Federal OSC may assume direct operational command of all response efforts, though DoD remains financially responsible for cleanup and damage costs, and COs and masters of public vessels remain in command of and are responsible for their vessels and personnel. OPA 90 specifies that the USCG or EPA Federal OSC will direct the response to spills of national significance (SONS).

10-4.6 Non-DoD Spills. The DoD also has certain responsibilities to assist in the response to non-DoD spills. As shown in Figure 10.1, the DoD is 1 of 15 Federal agencies that comprise the NRT. As a participating NRT member, the DoD and its components are obligated to provide any assistance they can in responding to OHS spills upon request by the Federal OSC, to the extent that it does not impair DoD mission capabilities. Additionally, the Naval Sea System Command's Supervisor of Salvage (SUPSALV) is highlighted within the DoD component of the NCP as one of the nation's Federal response assets. Specifically, for large or salvage-related pollution incidents, SUPSALV personnel, equipment, and expertise may be requested directly by the Federal OSC. To facilitate mobilization and funding of SUPSALV equipment and personnel for a non-DoD spill, SUPSALV and USCG have established an Interagency Agreement for Pollution Response.

10-4.7 Natural Resource Trustee Responsibilities. The NCP assigns responsibilities to certain Federal agencies for protecting natural resources that are held in trust by the Federal government for the U.S. public. Responsibilities for natural resources protection are primarily divided among the Department of the Interior, the Department of Agriculture, the DoD, and the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA). Individual States also assume trust responsibilities for natural resources protection. For natural resources located on DoD owned or leased property, the DoD is responsible for protecting these resources from any environmental damage, including OHS spills. Should such damage occur as a result of a spill, the DoD is responsible for determining the extent of the damage and restoring or replacing the damaged resource. For more details on Natural Resource Trustee Responsibilities, see 22-5.5.

10-4.8 Natural Resource Damage Assessments. If, as a result of a spill or release, natural resources are injured, an investigation and evaluation must determine the extent of destruction, injury, and loss of the resource and assess damages for that injury and the loss of use of the resource.

10-5 Navy Policy

10-5.1 Navy Organization for Planning and Response. The Navy shall fully prepare for OHS pollution incidents, and where such incidents do occur, undertake immediate, direct action to minimize the harmful effects of OHS on the environment. The Navy OHS pollution contingency planning and response organization has been

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established to carry out this policy. The organization uses existing chains of command and regional coordination authorities and satisfies the requirements and intent of Federal and State regulations.

Figure 10.2 shows the Navy OHS pollution response organization. AECs, assigned Navy area wide coordination authority by OPNAVINST 5400.24D, and Fleet commanders in chief (CINCs) shall establish OHS pollution contingency planning and response policies in their areas, consistent with this instruction. AECs shall predesignate the shoreside NOSCs. Shoreside NOSCs are generally regional environmental coordination authorities who represent senior Navy commanders for environmental matters within that region (see Chapter 1). Shoreside NOSCs shall ensure that all facilities are covered under an appropriate plan or plans. The shoreside NOSCs may direct that a comprehensive FRP for Navy geographically-adjacent complexes be submitted. The shoreside NOSC shall ensure Navy facilities shall have the capability to control, contain, and clean up OHS spills, and evaluate impacts to natural resources. Facilities shall provide immediate response assets. The NOSC should consider activating SUPSALV for all oil spills that exceed local capabilities. SUPSALV maintains and operates an extensive inventory of oil spill containment and recovery equipment with the requisite knowledge and expertise to support these operations.

Another option is to have the NOSC approve alternatives for individual activities to meet their readiness requirements. The Navy has obtained use of USCG Basic Ordering Agreements (BOA) to provide additional resources to meet OPA 90 "worst case" spill scenarios and rapid response in some areas. An activity CO may access a BOA per procedures established with the ordering office. Authorized ordering offices for BOAs are NAVFACENGCOM Engineering Field Divisions (EFDs), Public Work Centers (PWCs) and Naval Facility Engineering Service Center (NFESC), Port Hueneme, CA. Major claimants/activities are responsible for all payments to BOA contractors. In other areas, an oil pollution response cooperative is the only, or best, means of meeting worst case requirements. Navy participation in commercial spill response cooperatives may have legal, financial, and technical concerns that need to be carefully assessed. Therefore all requests by Navy shore commands to participate in a spill cooperative shall be submitted to COMNAVFACENGCOM, via the chain of command and the appropriate EFD, for review and approval.

10-5.2 Shoreside Contingency Planning

10-5.2.1 NOSC Plans. Commanders designated as NOSCs shall have an OHS pollution contingency plan providing geographic coverage for the assigned area. NOSC plans shall conform to the contingency planning instructions issued by AECs and shall identify Navy facility assignments and responsibilities within the NOSC region. NOSC plans shall establish procedures to incorporate Navy natural resource expertise in spill response and to evaluate and mitigate injury to natural resources. They shall provide guidance for coordination with other appropriate natural resource trustees. These plans shall be coordinated and consistent with both RCPs and ACPs. They shall also be coordinated with other DoD component OSC plans, including Marine Corps plans, to the extent specified by the DoD or as required by any Navy/DoD component inter-service agreement. NOSC OHS pollution contingency plans shall be prepared in a format determined by COMNAVSEASYSCOM and shall be kept current at all times. They shall undergo, as a minimum, a thorough annual review and, if necessary, revision. COMNAVSEASYSCOM shall assist the NOSCs in developing NOSC plans in the proper format and shall assist in major plan revisions and updates. The NOSC plan shall address the worst case scenario in the NOSC area of responsibility and shall be coordinated with all applicable OHS FRPs.

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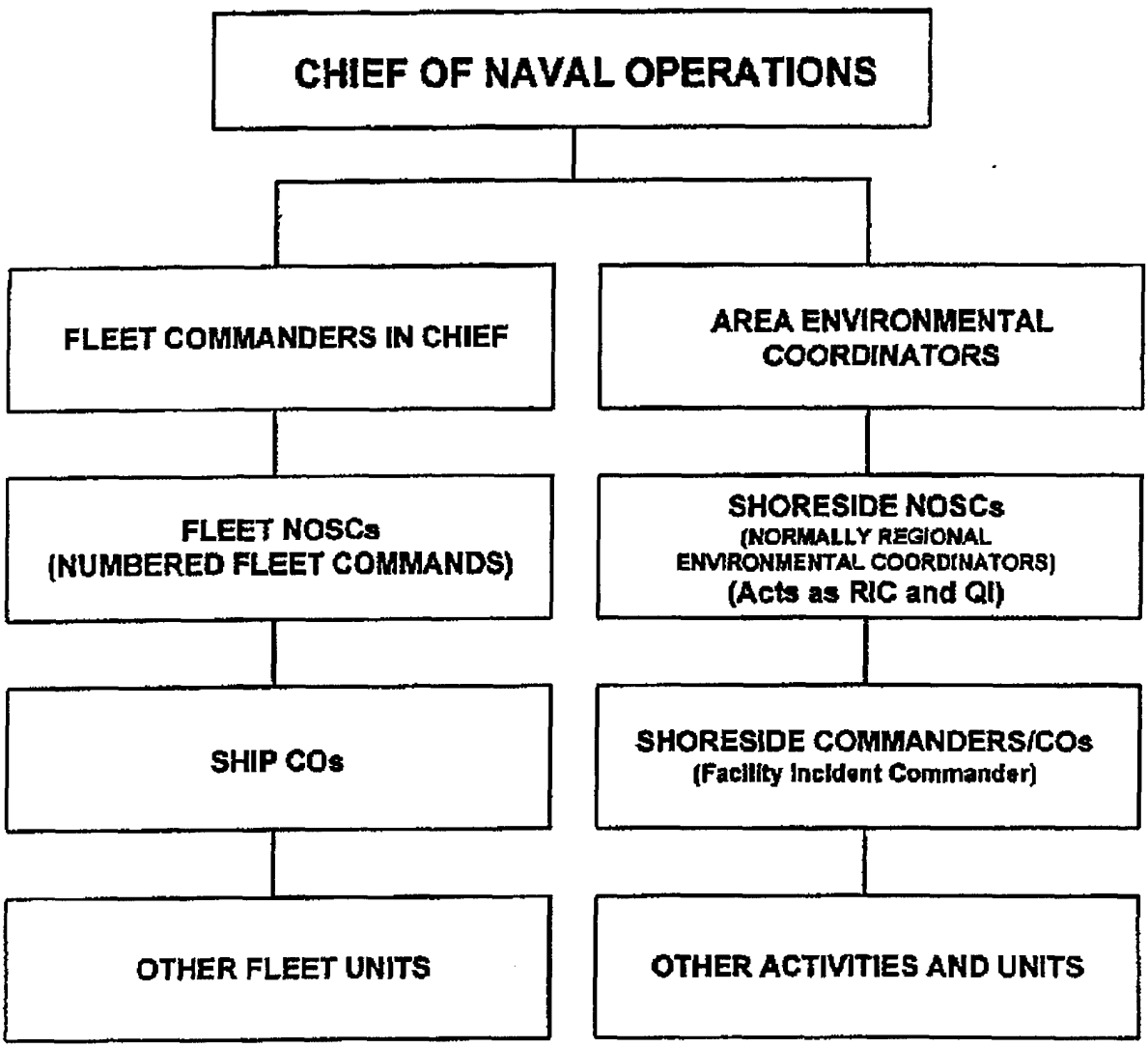
CHIEF OF NAVAL OPERATIONS
FLEET COMMANDERS IN CHIEF
AREA ENVIRONMENTAL COORDINATORS
FLEET NOSCs (NUMBERED FLEET COMMANDS)
SHORESIDE NOSCs (NORMALLY REGIONAL ENVIRONMENTAL COORDINATORS) (Acts as RIC and QI)
SHIP COs
SHORESIDE COMMANDERS/COs (Facility Incident Commander)
OTHER FLEET UNITS
OTHER ACTIVITIES AND UNITS

NAVY OHS POLLUTION RESPONSE ORGANIZATION

FIGURE 10.2

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10-5.2.2 Oil and Hazardous Substances Facility Response Plans. Facilities meeting the requirements for submission of the FRPs as defined in this chapter or as designated by the NOSC shall have a facility OHS spill response plan providing geographic coverage for the response area preassigned to the facility by the NOSC. Facility plans shall be coordinated with the NOSC spill contingency plan and follow the general format prescribed by COMNAVFACENGCOM. Facility plans shall be coordinated with the State and local authorities, kept current, and reviewed and updated annually.

10-5.3 Fleet Contingency Plans

10-5.3.1 NOSC Plans. Each numbered fleet command shall have a NOSC plan covering the operational area for that fleet. Fleet NOSC plans shall comply with the cognizant Fleet CINC instruction for OHS pollution contingency planning. NOSC plans shall be developed in the format prescribed by COMNAVSEASYSCOM and shall be as consistent as possible with Federal, State and foreign agencies. Fleet NOSC plans shall be kept current and reviewed and updated annually.

Fleet NOSC OHS spill contingency plans can be developed either as a stand-alone document or as a chapter or annex to fleet operational orders (OPORDs), provided the format complies with COMNAVSEASYSCOM guidance. Fleet plans shall contain information consistent with adjacent shoreside NOSC plans.

10-5.3.2 Shipboard Plans. Each Navy vessel shall develop OHS spill contingency plans per guidance provided by COMNAVSEASYSCOM. Such plans shall be coordinated with fleet-wide NOSC plans and shall be consistent with adjacent shoreside NOSC plans and applicable Senior Officer Present Afloat (SOPA) instructions.

10-5.4 Response Operations

10-5.4.1 Health and Safety. Health and safety shall be the top priority for all Navy OHS pollution response operations. The health and safety of response personnel shall not be compromised at any point during on-scene response. All response actions shall be in compliance with the requirements of reference (a), as required by the NCP and OPA 90 regulations.

10-5.4.2 Navy Response. The Navy shall respond promptly to all Navy OHS spills. For Navy HS releases, the Navy, as the predesignated Federal OSC, shall direct all cleanup actions required. For Navy oil discharges, either EPA or the USCG is the predesignated Federal OSC and has statutory authority to assume control of the response if Navy actions are ineffective or inadequate. COs and masters of public vessels, however, remain in command of and are responsible for their ships and personnel. The Navy policy for response to oil discharges is to contain and mechanically recover the oil. Other current and developing response methods, including chemical applications such as dispersants, gelling agents, piston films, open-sea burning, bioremediation, and other similar techniques shall only be used in the special cases where requested by an NOSC, and endorsed by an EPA or USCG Federal OSC, and an approved RRT in U.S. waters, except where such methods are necessary to protect human life. For offshore or salvage-related OHS response, COMNAVSEASYSCOM shall evaluate the possible use of developing technologies and recommend changes in operational response strategies, as appropriate. Likewise, for inland or harbor oil spill response or on-shore HS spill response, COMNAVFACENGCOM shall review the possible use of developing technologies, recommend changes in operational response strategies, as appropriate, and maintain expertise for assisting in the investigation and mitigation of injury to natural resources. Navy policy is to retain control of all Navy OHS pollution responses.

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10-5.4.3 Military Sealift Command (MSC) Spills. Spills from MSC ships or ships chartered by MSC shall be handled as follows:

a. MSC ships that have a United States Naval Ship (USNS) designation are public vessels of the United States. The NOSC has the same responsibility for response to a spill from a U.S. naval ship (USNS) as from any other Navy ship. The Master of a USNS shall notify the appropriate fleet or shoreside NOSC of any OHS spill that occurs or has the potential to impact in their area of responsibility. MSC shall be requested to provide funding and technical assistance as necessary for response operations.

b. Vessels maintained and owned by the U.S. Maritime Administration (MARAD) and operating under MSC control are public vessels. The NOSC has the same responsibility for response for a spill from a MARAD vessel under MSC control as a spill from a Navy ship. The Master of a MARAD ship operating under MSC control shall notify the appropriate fleet or shoreside NOSC of any OHS spill that occurs or has the potential to impact in their area of responsibility. MSC shall be requested to provide funding and technical assistance as necessary for response operations.

c. Vessels under time or voyage charter to MSC are not public vessels and are required to comply with all international, Federal, and State pollution prevention and control regulations. Response to any OHS incident is the responsibility of the vessel's owner. The Navy shall monitor any such event to ensure that the interests of the U.S. are not unnecessarily prejudiced.

10-5.4.4 Non-Navy Spill Response. Navy response assistance may be requested for non-Navy spills by the Federal OSC. Under the terms and conditions of the NCP and the Navy SUPSALV - Coast Guard Interagency Agreement for Pollution Response, the Navy shall respond to such requests.

10-5.4.5 Salvage-Related Spills. The Navy shall direct response efforts to pollution incidents resulting from Navy ship incidents, such as ship groundings. The cognizant fleet or shoreside NOSC shall direct these operations and coordinate closely with ongoing fleet salvage operations. Likewise, fleet salvage forces shall take all reasonable precautions to reduce the threat of OHS pollution from stricken vessels or craft. Navy SUPSALV shall provide advice, personnel, and equipment, as appropriate, for joint salvage/pollution operations.

The Navy shall fulfill obligations outlined in the NCP for Navy support to non-Navy salvage/pollution incidents.

10-5.4.6 Spills Due to Collisions with Commercial Ships. In instances where a collision between a Navy ship and a commercial ship results in a spill from the commercial ship, the Navy shall provide immediate response assistance, as appropriate. In such situations, the Navy fleet commander shall report the spill, monitor the situation, and offer appropriate support to responsible authorities.

10-5.4.7 Navy Response to Other DoD Component OHS Spills. Navy assistance for other DoD component OHS spills may be requested by the DoD, the DoD component, or by the Federal OSC. Requests for Navy assistance are particularly likely for large marine oil spills and may come from the Defense Logistics Agency, the Marine Corps, or other DoD components. Navy response to such requests shall be consistent with procedures established by the DoD and with any applicable Navy/DoD component inter-service agreement.

10-5.4.8 Natural Resources Injury Evaluation and Mitigation. The Navy shall act quickly to evaluate potential injury to natural resources from both OHS spills and potential response actions, to minimize such injury. In addition, for Navy spills, the Navy shall undertake to develop,

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propose, and carry out mitigation of any impacts in coordination with other natural resource trustees.

10-5.5 Training

a. Every person involved in HW clean up and emergency response operations shall have received applicable NAVOSH Worker Right-to-Know Training on hazardous materials, shall receive the OSHA First Responder Operations Level Course (8 hours) and shall receive job specific training regarding emergency response procedures (summarized in Figure 24.1) specific to their installation. Training curriculums shall be tailored to include State and local emergency response laws and regulations. Training records and documentation shall be maintained by each command as required by Federal, State and local regulations.

b. Every person involved in oil and HS contingency planning, supervision and management at naval shore facilities shall receive the general environmental overview training specified in Chapter 24 of this instruction, shall receive specific comprehensive training on Federal, State and local emergency response regulations related to their job assignment, and must be familiar with the provisions of this chapter.

c. Environmental professionals at NAVFACENGCOM EFDs/EFAs, Navy Regional Environmental Coordinators, major claimant and type commander environmental staffs, and legal environmental staff shall receive the general environmental overview training specified in Chapter 24 of this instruction, introductory or executive overview training in emergency response management, and must be familiar with the provisions of this chapter.

10-5.6 Drills and Exercises

OPA 90 requires quarterly spill notification and emergency response procedures drills and subsequent evaluations of the responsiveness of established plans. OPA 90 also requires annual tabletop and equipment deployment drills and triennial "area exercises" intended to demonstrate and test worst case spill response capabilities. Additionally, OPA 90 provides for unannounced drills that may be conducted as frequently as on an annual basis.

Navy shore facilities shall accomplish all quarterly and annual drill requirements. Navy facilities shall incorporate OPA 90 drill and exercise requirements into routine business or other emergency drills wherever practical. Navy facilities may take credit for notification, emergency response procedures, tabletop and equipment deployment drills for actual spill events, provided the objectives of these drills are met.

NOSCs shall take the lead in coordinating triennial exercises as required by OPA 90. The NOSC shall coordinate a drill schedule for all facilities under his cognizance to effect cost savings and ensure uniformity and effectiveness of the exercises. Combined exercises, whenever appropriate, shall be used to reduce costs. The NOSC shall coordinate with SUPSALV to ensure that oil spill removal organization (OSRO) drills conducted within the response area are credited to each facility within their cognizance.

10-6 Responsibilities

10-6.1 COMNAVSEASYSCOM shall:

a. Assist AECs in the development and update of the area-wide OHS spill contingency planning and response instructions.

b. Assist NOSCs in the development and update of NOSC plans, to include worst case spill scenario planning.

c. Develop, issue NOSC plan format, and assist NOSCs in major OHS pollution response issues as they arise and in decision-making for

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major or offshore/salvage-related response operations.

d. Assist NOSCs in meeting OPA 90 drill and exercise requirements for testing and exercising Navy capabilities to respond to worst case spill scenarios.

e. Provide expertise and equipment at the request of the NOSC for major offshore or salvage-related OHS pollution incidents.

f. Assist CNO in establishing and manning a RRT to respond to worst case spill scenarios.

g. Ensure training and exercise requirements required by regulations of spill response organizations are met in a cost effective manner with results issued to all NOSCs.

h. Determine requirements, budget for, and procure investment category equipment for major and salvage-related spill response.

10-6.2 COMNAVFACENGCOM shall:

a. Assist facility commanders and COs with the development of OHS FRP plans.

b. With COMNAVSEASYSCOM, assist major claimants and AECs in the determination of emergency response training needs, and develop and provide associated training curriculums and courses.

c. Determine requirements, budget for, and procure investment category equipment for inland water and harbor oil spill control.

d. Coordinate Navy access to USCG BOAs for response to spills beyond the capability of the facility.

e. Review and, if appropriate, approve requests by Navy shore commands to participate in spill cooperatives.

10-6.3 Major claimants shall:

a. Ensure Navy spill response personnel receive appropriate training for OHS spill contingency planning and response.

b. Fund OHS spill response expenditures that are beyond the capability of the Navy spiller.

c. Ensure cognizant facilities fully comply with Federal and State laws and regulations for spill prevention, readiness, and response.

10-6.4 Fleet CINCs/AECs shall:

a. Develop and periodically update an area-wide OHS spill contingency planning instruction specifying NOSC and facility responsibilities for OHS spill contingency planning and response in the region.

b. Predesignate shoreside NOSCs to plan for and direct response efforts to OHS spills from Navy ship and shore activities throughout the region.

c. Coordinate with SUPSALV for the development, revision and update of the area-wide OHS spill contingency planning instruction and the individual NOSC plans.

d. Establish contingency planning and response policies in their areas consistent with this instruction.

e. Establish a spill response training program consistent with this chapter and regulatory requirements.

10-6.5 Fleet NOSCs shall:

a. Develop area-wide fleet NOSC plans in a format prescribed by COMNAVSEASYSCOM or the AEC instructions and coordinate these plans with adjacent shoreside NOSCs for the 12 nm zone.

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b. Ensure all required Federal, State, regional, local, or foreign government notifications are made promptly.

c. Ensure that OPORDs and instructions containing guidance or policy for fleet OHS pollution response are consistent with fleet NOSC plans and SOPA instructions.

d. Coordinate shoreside NOSC plans with fleet planning and operations and ensure that Navy SOPA instructions contain guidance for fleet OHS spill response that is consistent with the shoreside NOSC plans.

10-6.6 Shoreside NOSCs - U.S. areas shall:

a. Direct all major response efforts for Navy OHS spills within assigned shoreside boundaries to include coastal areas out to the 12 nm zone.

b. Serve as the Federal OSC under the NCP for Navy HS releases within assigned geographic boundaries.

c. Predesignate shoreside FICs and preassign geographic areas for response.

d. Coordinate response operations with adjacent NOSCs, including fleet NOSCs, for Navy OHS spills that may impact more than one NOSC region.

e. Develop, in the general format prescribed by COMNAVSEASYSCOM or the AEC's instructions, area-wide NOSC OHS spill response plans and coordinate the development of the plans with the applicable ACPs.

f. Coordinate response operations with the DoD representative to the RRT.

g. Coordinate shoreside NOSC plans with fleet planning and operations.

h. Ensure that all Federal, State, and local OHS spill notification procedures are followed.

i. Establish a spill response training program consistent with this chapter and regulatory requirements.

10-6.7 Shoreside NOSCs - foreign areas shall:

a. Develop overseas NOSC OHS spill contingency plans in the format prescribed by COMNAVSEASYSCOM and consistent with AEC instructions and the Overseas Environmental Baseline Guidance Document (OEBGD). Coordinate the development of these plans with applicable host nations.

b. Oversee response operations for Navy OHS spills within assigned areas and coordinate response operations with adjacent NOSCs and with applicable foreign nation agencies.

c. Predesignate shoreside FICs and preassign geographic areas for response.

d. Ensure all required foreign country OHS spill notification procedures are followed, within the guidelines established by the OEBGD.

e. Establish a spill response training program consistent with this chapter and regulatory requirements.

10-6.8 Facility incident commanders and commanding officers shall:

a. Oversee response efforts for Navy OHS releases within preassigned areas until relieved by the NOSC, as well as support the NOSC for Navy response in areas outside of the facility's boundaries.

b. Develop, annually review, and periodically update facility plans in a format prescribed by COMNAVFACENGCOM or policy direction and guidance provided by the NOSC.

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c. Review FRPs for consistency with appropriate State and local environmental and emergency planning authorities.

d. Make all required Federal, State, and local notifications for Navy OHS spills and make Navy chain of command notifications up to the NOSC level.

e. Ensure that assigned staff responsible for OHS response receive appropriate training.

f. Maintain the readiness of the Navy spill response capability assigned to the facility.

10-6.9 Commanding officers other than designated FICs shall:

a. Develop, annually review and update, as appropriate, activity or shipboard OHS spill contingency plans in a format prescribed by COMNAVFACENGCOM or COMNAVSEASYSCOM, and or with applicable FIC and NOSC plans, respectively.

b. Ensure personnel who would respond to, or supervise the response to, an OHS spill receive required training.

c. Mitigate and clean up OHS spills from the ship or activity and reimburse as appropriate, other activities that provide assistance.

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CHAPTER 11

PCB MANAGEMENT ASHORE

11-1 Scope

This chapter identifies requirements and responsibilities applicable to the prevention of pollution from polychlorinated biphenyls (PCBs) at Navy shore facilities within the United States, Commonwealth of Puerto Rico, Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Marianas Islands. Navy policy with respect to activities in foreign countries is provided in Chapter 18.

11-1.1 References. Relevant references are:

a. 40 CFR 125, Best Management Practices Criteria Under Clean Water Act (CWA);

b. 40 CFR 260-270, Environmental Protection Agency (EPA) Regulations Implementing Resource Conservation and Recovery Act (RCRA);

c. 40 CFR 372, EPA Toxic Chemical Release Reporting Regulations;

d. 40 CFR 760-761, EPA Regulations for Controlling PCBs;

e. DoD Directive 4001.1 of 4 September 1986, Installation Management; (NOTAL)

f. DoD Directive 4140.1 of 4 January 1993, Material Management Policy; (NOTAL)

g. DoD Directive 6050.8 of 27 February 1986, Storage and Disposal of Non-DoD Owned Hazardous and Toxic Materials on DoD Installations; (NOTAL)

h. OPNAVINST 5100.23D, Navy Occupational Safety and Health (NAVOSH) Program Manual; (NOTAL)

i. SECNAVINST 5191.1, Storage and Disposal of Non-DoD-Owned Hazardous and Toxic Materials on DON Installations; (NOTAL)

j. Naval Facilities Engineering Services Center (NFESC) 20.2-028C, PCB Program Management Guide (NOTAL).

11-2 Legislation

11-2.1 Toxic Substances Control Act (TSCA). TSCA generally bans the use, manufacture, processing, and distribution in commerce of PCBs. TSCA and the PCB regulations also strictly regulate the marking, storage, and disposal of PCBs. Regulations issued under TSCA require generator identification numbers and the manifesting of PCB wastes. Additionally, in some cases, States regulate PCBs more stringently than the Federal program, including the regulation of PCBs at concentrations less than 50 parts per million (ppm) as RCRA hazardous waste.

11-3 Terms and Definitions

11-3.1 Capacitor. A device for accumulating and holding a charge of electricity consisting of conducting surfaces separated by a dielectric. Types of capacitors are as follows:

a. **Small Capacitor.** A capacitor that contains less than 1.36 kg (3 lbs) of dielectric fluid.

b. **Large, High Voltage Capacitor.** A capacitor that contains 1.36 kg (3 lbs) or more of dielectric fluid and operates at 2,000 volts (ac or dc) or above.

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c. **Large, Low Voltage Capacitor.** A capacitor that contains 1.36 kg (3 lbs) or more of dielectric fluid and operates below 2,000 volts (ac or dc).

11-3.2 In or Near Commercial Buildings. Within the interior of, on the roof of, attached to the exterior wall of, in an adjacent parking area serving, or within 30 meters of a non-industrial, non-substation building. Commercial buildings include:

a. Civilian or Navy personnel assembly buildings

b. Educational properties

c. Institutional properties (including museums, hospitals, clinics)

d. Residential properties (living quarters)

e. Stores

f. Office buildings (including administrative buildings)

g. Transportation centers (including airport terminal buildings, bus stations, or train stations).

11-3.3 Non-PCB Transformer. Any transformer that contains less than 50 ppm PCB; except that any transformer that has been converted from a PCB transformer or a PCB-contaminated transformer cannot be classified as a non-PCB transformer until reclassification has occurred per the requirements of reference (d).

11-3.4 PCB or PCBs. Any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances that contain such substance. Prior to stringent regulation of PCBs, PCBs were used in a variety of applications as a fire retardant and for other purposes, such as sound insulating felt in submarines and electrical cables. Often, PCBs were added in these applications without being specified in material or equipment procurement specifications; thus, the presence of PCBs cannot always be determined through review of applicable procurement documents. In the disposal of materials and components, care should be taken to identify all potentially hazardous substances and carry out the disposal accordingly.

11-3.5 PCB Article. Any manufactured article, other than a PCB container, that contains PCBs and whose surface(s) have been in direct contact with PCBs. This includes capacitors, transformers, electric motors, pumps, pipes, and any other manufactured items.

11-3.6 PCB Article Container. Any package, can, bottle, bag, barrel, drum, tank or other device used to contain PCB articles or PCB equipment, and whose surface(s) has not been in direct contact with PCBs.

11-3.7 PCB Container. Any package, can, bottle, bag, barrel, drum, tank, or other device that contains PCBs or PCB articles and whose surface(s) have been in direct contact with PCBs.

11-3.8 PCB-Contaminated Electrical Equipment. Any electrical equipment, including but not limited to transformers, capacitors, circuit breakers, re-closers, voltage regulators, switches, electromagnets, and cable, that contain 50 ppm or greater PCB, but less than 500 ppm PCB.

11-3.9 PCB Equipment. Any manufactured item, other than a PCB container, that contains a PCB article or other PCB equipment. This includes microwave ovens, electronic equipment, and fluorescent light ballasts and fixtures.

11-3.10 PCB Item. Any PCB article, PCB article container, PCB container, or PCB equipment that deliberately or unintentionally contains any PCB or PCBs (50 ppm or greater).

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11-3.11 PCB Leak. Any instance in which a PCB item has any PCB on any portion of its external surface or surroundings.

11-3.12 PCB Transformer. Any transformer that contains 500 ppm PCB or greater. The following transformer classifications are given:

a. <50 ppm Non-PCB Transformer.

b. 50-499 ppm PCB Contaminated Transformer.

c. >500 ppm PCB Transformer.

11-3.13 PCB Waste Generator. Any person whose act or process produces PCBs that are regulated for disposal or whose act first causes PCBs or PCB items to become subject to disposal requirements, or who has physical control over the PCBs when a decision is made that the use of the PCBs has been terminated.

11-3.14 Quantifiable Level/Level of Detection. For PCB analysis, quantifiable level/level of detection means 2 micrograms/gram (2 ppm) from any resolvable gas chromatographic peak.

11-3.15 Totally Enclosed Manner. Any manner that will ensure no exposure of human beings or the environment to any concentration of PCBs.

11-4 Requirements

11-4.1 General. Except as authorized in reference (d), EPA regulations ban the use of PCBs in any manner not totally enclosed. Reporting requirements for PCB spills are specified below.

11-5 Navy Policy

11-5.1 Compliance with PCB Management Requirements

a. **Navy Activities.** Navy activities shall comply with the requirements of reference (d) and applicable State and local PCB management requirements. Reference (j) has been designed to assist Navy activities in complying with the Federal regulations governing PCBs. In addition, Navy activities shall observe the following additional requirements:

(1) PCB Materials. All items or materials containing PCBs or suspected of containing PCBs shall be considered regulated unless excepted by regulation. PCBs exist in Navy electrical equipment and hydraulic and lubricating oils as described and authorized for use (subject to restrictions in reference (d)). The Naval Sea Systems Command (NAVSEASYSCOM) is establishing appropriate authorizations and controls for these materials and is issuing material control requirements as NAVSEASYSCOM PCB Advisories. Repair, removal handling, storage and disposal of all PCB materials shall be done per NAVSEASYSCOM PCB Advisories in addition to Federal, state and local requirements.

(2) PCB Materials. The Federal PCB Spill Cleanup Policy, presented in reference (d), applies to spills that occur after 4 May 1987, and applies to the response to spills resulting from the release of materials containing PCBs at concentrations of 50 ppm or greater. (Spills that occurred before 4 May 1987 are to be cleaned up under requirements established at the discretion of the EPA.) PCBs are listed in Federal regulations as a Hazardous Substance. A spill of a reportable quantity of "pure PCB" shall be immediately reported as required by regulation (see Chapter 10). The quantity of "pure PCB" spilled can be calculated using the PCB concentration of the spilled material, the amount of the material spilled, and the density of the particular type of PCB (if unknown, assume 10 lbs/gallon). Under the National Contingency Plan (NCP), all spills involving 1 pound or more, by weight, of PCBs shall be reported to the National Response Center (NRC) at 1-800-424-8802. (In the Washington, D.C. area, the number is 202-426-2675.)). Spills that directly contaminate surface water, sewers, drinking water supplies, grazing lands, or vegeta-

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ble gardens shall be reported to the appropriate EPA regional office within 24 hours. States, particularly those which regulate PCBs as a hazardous materials/hazardous waste (HM/HW), may have a more strict reporting requirement. Regardless of the reporting requirement, all PCB spills shall be cleaned up per reference (d).

(3) Contractors. Activities shall ensure that contractors performing work for the Navy on Navy property comply with all applicable PCB requirements while on-site, including Navy requirements.

11-5.2 Navy PCB Annual Report. All Navy shore activities that generate, use, treat, store, and/or dispose of PCBs shall annually inventory or validate all PCBs and PCB items per the procedures published by NFESC and as required by applicable Federal and State regulations.

11-5.3 Navy and Defense Logistics Agency Interface on PCBs. Reference (f) designates the DLA's DRMS as the responsible agency for worldwide disposal of all PCBs and PCB items. However, reference (e) permits commanding officers (COs) to contract directly for PCB disposal service when, "...they can get a combination of quality, responsiveness, and cost that best satisfies their requirements."

Navy installations shall use the DLA PCB contract disposal services as much as economically and operationally feasible. However, when necessary to get the combination of quality, responsiveness, and cost that best satisfies installations requirements, Navy installations may request some other appropriate contract authority to provide contracting services for PCB disposal. An installation not using DRMS contract services shall insure the contract requirements comply with Federal, State and local PCB regulations, shall ensure contract requirements and contract quality control procedures are at least as stringent as those used by DRMS, shall obtain concurrence by their major claimant, and shall notify CNO (N45) of each contract for such services.

11-5.4 PCB Transformers in Commercial Buildings. PCB transformers in commercial buildings shall be registered with building owners. PCB transformers in or near commercial buildings shall be registered with owners of all buildings located within 30 meters of the PCB transformer(s). For Navy installations, compliance with the requirement is adequate if PCB transformers in or near commercial buildings are registered:

a. For Navy tenants, with the organization that prepares fire evacuation plans.

b. For non-Navy tenants, registration is made to the tenant.

11-5.5 Navy PCB Equipment Removal Policy. Navy policy is to eliminate PCBs from all Navy owned electrical distribution systems and equipment, hydraulic fluids, and cooling and lubricating oils, to the maximum extent practicable. The following procedures shall be followed:

a. Transformers:

(1) Determine by EPA-approved method, the PCB concentration for all pad mounted and pole mounted transformers. Transformers shall be marked: Labeled with a tag, or other appropriate means with the sample identification number and concentration of PCBs. PCB test results (in ppm) for each transformer shall be noted in the activity's records.

(2) By October 1998, eliminate all transformers containing 500 ppm or more PCBs. By October 2003, eliminate all transformers containing 50 ppm or more PCBs. To reduce future potential liabilities, transformer elimination shall be accomplished by replacement or removal with load transfer to non-PCB transformers. Retrofill shall be an acceptable alternative to replacement for transformers when it has a clear

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economic benefit (typically transformers in good condition, less than 25 years old, and 300 kilovolt-ampere (KVA) or larger), and for those transformers that are difficult or impossible to replace due to constraints with their physical location.

b. **Capacitors:**

(1) Establish an accurate inventory of high and low voltage capacitors based on manufacturing information. Large capacitors established to contain PCBs over 50 ppm shall be marked PCB contaminated, labeled with the sample ID number and concentration. Large capacitors established as not containing PCBs shall be marked non-PCB. PCB classification of each large capacitor shall be noted in activity records.

(2) By October 1998, eliminate all large low and high voltage capacitors containing PCBs.

c. **PCB Elimination Plan.** All activities shall prepare a plan for the elimination of PCBs and PCB-contaminated material from all transformers, capacitors, and associated electrical equipment, systems, and hydraulic and lubricating fluids. The plan shall include the proposed date of removal and the requested source of funding for each PCB item. Transformer and capacitor owners shall prioritize corrective projects based on the severity of mission impact if a fire, explosion, or major PCB spill would occur and the likelihood of such an incident occurring. Transformer and capacitor owners shall coordinate priorities with impacted customers. Pay special attention to the redesign of the power grid to accommodate PCB removal. Activity PCB elimination plans shall be submitted to major claimants via the cognizant NAVFACENGCOM Environmental Field Division (EFD) for review and approval. PCB elimination plans shall be updated annually by 31 May until all regulatory requirements and Navy goals concerning the elimination of PCBs have been met.

d. **Funding:**

(1) Defense Business Operation Fund (DBOF) activities shall use DBOF funds for routine replacement of transformers and capacitors in their plant account, except when construction costs require the use of military construction (MILCON) funding.

(2) At non-DBOF activities, major claimants shall fund routine replacements of transformers and capacitors. Major claimants shall identify funding requirements and request any additional needed funds through the Program Objective Memorandum (POM) process.

(3) At both DBOF and non-DBOF activities, PCB transformer and capacitor replacements required by EPA regulation or that are in mission critical areas (i.e., where a spill/fire incident would result in the extended loss of essential facilities) are eligible for environmental operations & maintenance, Navy (O&MN) project funds managed by major claimants.

(4) Activities shall fund testing of electrical equipment to determine PCB content.

e. **Procurement.** All future procurement of transformers or any other equipment containing dielectric or hydraulic fluid shall be accompanied by a manufacturer's certification that the equipment contains no detectable PCBs (less than 2 ppm) at the time of shipment. Such newly procured transformers and equipment shall have permanent labels affixed stating they are PCB-free (no detectable PCBs).

11-5.6 Training

a. Every person who repairs, maintains, replaces inventories or tests PCB, PCB contaminated, or suspected PCB articles and their immediate supervisors shall receive applicable NAVOSH Worker Right-to-Know Training on hazardous materials, shall receive job specific

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training on marking, inventorying, reporting, inspection, and spill reporting on PCBs, and shall receive job specific training regarding additional requirements specific to their installation. Training curriculum shall be tailored to include State and local PCB laws and regulations. Training records and documentation shall be maintained by each command as required by Federal, State, and local regulations.

b. Every person involved in PCB program management at Naval shore facilities shall receive general environmental overview training specified in Chapter 24 of this instruction, shall receive specific comprehensive training on Federal, State, and local PCB regulations related to their job assignment, and shall be familiar with the provisions of this chapter.

c. Environmental professionals at COMNAVFACENGCOM and EFDs/Engineering Field Activities (EFAs), Navy Regional Environmental Coordinators, major claimant and type commander environmental staffs, and legal environmental staff shall received general environmental overview training specified in Chapter 24 of this instruction, introductory or executive overview training in PCB management, and shall be familiar with the provisions of this chapter.

11-6 Responsibilities

11-6.1 COMNAVFACENGCOM shall:

a. Provide technical assistance to commands in complying with applicable Federal, State, and local PCB requirements.

b. Evaluate alternatives to the use of PCBs in existing PCB equipment transformers and provide such information to appropriate commands and activities.

c. Make necessary changes to facility design criteria and operating instructions to incorporate Federal, state and local regulations regarding PCBs and PCB items.

11-6.2 COMNAVSUPSYSCOM shall include provisions in inter-service support agreements (ISSAs) with DLA for DLA/DRMS/Defense Reutilization and Marketing Offices (DRMO) support of PCB requirements Navy-wide.

11-6.3 Chief, Naval Education and Training shall develop and provide training on the safety and occupational safety and health aspects of PCBs to applicable Navy personnel. Where possible, this training should be integrated into existing training.

11-6.4 Major claimants and subordinate commands shall:

a. Ensure compliance with applicable requirements, including PCB management at government-owned/contractor-operated (GOCO) facilities.

b. Ensure that all activities develop and implement PCB elimination plans, and that funding is programmed to meet the goals of the elimination plans. Updates of PCB elimination plans shall be completed by 31 May of each year. At a minimum, funding shall be programmed to ensure compliance with all applicable regulations and Navy goals for elimination of PCBs.

c. Ensure that all activities have submitted to the claimant by 31 January a PCB annual report for the previous calendar year. The claimant shall review each report to ensure that it is complete, and forward to NFESC all activity PCB annual reports by 28 February.

11-6.5 Commanding officers of shore activities shall:

a. Comply with applicable Federal, State, and local PCB laws and regulations.

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b. Sign and submit, as appropriate, reports and other required data to EPA, State, or local agencies.

c. Ensure the training of personnel involved in PCB operations per paragraph 11-5.6.

d. Transfer accountability and custody of PCBs and PCB items stored for disposal to DRMO, insofar as possible.

e. Handle, store, mark, inspect, and assess risks of PCBs and PCB items according to applicable Federal or State regulations. With regard to PCB transformers and PCB contaminated transformers:

(1) Inspect for PCB leaks

(2) Repair all leaks

(3) Maintain records

(4) Provide notification to EPA.

f. Inventory or validate all PCBs and PCB items annually per procedures required by regulatory agencies. Copies of the completed annual report shall be forwarded annually by 31 January to the major claimant, who is in turn responsible for forwarding the report to NFESC by 28 February. Maintain records, for the life of the equipment (through disposal), for testing of PCB concentrations in hydraulic systems, heat transfer systems, and converted or reclassified transformers.

g. Report PCB spills or incidents involving combustion as prescribed in Chapter 10 when the spill exceeds the reportable quantities established in Federal regulations. Fire-related incidents involving PCB transformers shall be immediately reported to the NRC regardless of quantity.

h. Register all PCB transformers and equipment with cognizant fire departments as applicable.

i. Develop and implement a PCB elimination plan in compliance with Federal, State, and local PCB regulations. This plan shall be updated on an annual basis, with updated information being sent to the major claimant no later than 31 May each year.

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CHAPTER 12

HAZARDOUS WASTE MANAGEMENT ASHORE

12-1 Scope

This chapter identifies requirements and responsibilities for the management of hazardous waste (HW) and medical/infectious waste at Navy shore facilities within the United States, Commonwealth of Puerto Rico, Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Marianas Islands. Navy policy with respect to Navy activities in foreign countries is provided in Chapter 18. Responsibilities for the management of hazardous materials (HM) aboard Navy ships are defined in Chapter 19, and responsibilities for the transfer of HM from Navy ships to shore facilities are defined in section 12-5.2.1.

12-1.1 References. Although this chapter deals primarily with HW management, an effective, overall HW management program must include HW and HM minimization and must integrate occupational safety and health policy into HW management. Relevant references are:

a. 29 CFR 1910.120, Occupational Safety and Health Administration (OSHA) Regulations on Hazardous Waste and Emergency Response;

b. 29 CFR 1910.1200, OSHA Hazard Communication Standard;

c. 40 CFR 116-117, EPA Regulations on Hazardous Substances;

d. 40 CFR 125, Criteria and Standards for the National Pollutant Discharge Elimination System;

e. 40 CFR 260-270, EPA Hazardous Waste Management Regulations;

f. 40 CFR 279, Standards for the Management of Used Oil;

g. 40 CFR 350, Trade Secrecy Claims for Emergency Planning and Community Right-To-Know Information and Trade Secret Disclosures to Health Professionals;

h. 40 CFR 370, EPA Hazardous Chemical Reporting and Community Right-To-Know Requirements;

i. 40 CFR 372, EPA Toxic Chemical Release Reporting Regulations;

j. 49 CFR 171-179, Department of Transportation Hazardous Materials Regulations;

k. DoD Directive 4001.1 of 4 September 1986, Installation Management; (NOTAL)

l. DoD Directive 4210.15 of 27 July 1989, Hazardous Material Pollution Prevention; (NOTAL)

m. DoD Directive 6050.8 of 27 February 1986, Storage and Disposal of Non-DoD Owned Hazardous and Toxic Materials on DoD Installations; (NOTAL)

n. OPNAVINST 4110.2, Hazardous Material Control and Management (HMC&M); (NOTAL)

o. OPNAVINST 5100.19C, Navy Occupational Safety and Health (NAVOSH) Program Manual for Forces Afloat; (NOTAL)

p. OPNAVINST 5100.23D, Navy Occupational Safety and Health (NAVOSH) Program Manual; (NOTAL)

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q. BUMEDINST 6280.1A, Management of Infectious Waste; (NOTAL)

r. SECNAVINST 5191.1, Storage and Disposal of Non-DoD-Owned Hazardous and Toxic Materials on DON Installations; (NOTAL)

s. National Fire Codes, 307 Chapter 7, Hazardous Materials Storage; (NOTAL)

t. Botsford, J. et al. Regulated Medical Waste Definition and Treatment: A Collaborative Document. AORN JOURNAL *(Association of Operating Room Nurses, Inc)*, vol 58, no 1, pp 111-114, July 1993 (NOTAL).

NOTE:

Reference (n) describes the Navy integrated logistics approach for effective HM control and management. This chapter complements that policy by providing mandatory elements for an effective HW management program. Also see Chapter 3 for information on HM/HW pollution prevention.

12-2 Legislation

12-2.1 Resource Conservation and Recovery Act (RCRA). The Resource Conservation and Recovery Act (RCRA), which amended the Solid Waste Disposal Act, regulates the management of solid waste and HW. The Hazardous and Solid Waste Amendments (HSWA) of 1984 amended RCRA to include the cleanup, through corrective action, of releases of HW at RCRA-regulated facilities. RCRA requires cradle-to-grave management of HW through a record-keeping system that requires the manifesting of HW shipments from point of generation to ultimate disposal. HW treatment, storage, and disposal facilities are regulated through the issuance of operating permits. RCRA provides that EPA may delegate authority to States to regulate HW under State law in lieu of RCRA. Irrespective of whether EPA has delegated HW authority to a State, State HW substantive and procedural requirements, including the requirement to obtain State permits, are applicable to Navy facilities under the Federal Facility Compliance Act (FFCA).

12-2.2 Other Legislation. HM is governed by several laws including the Hazardous Materials Transportation Act, Occupational Safety and Health Act, the Clean Water Act (CWA), the Clean Air Act (CAA), and the Emergency Planning and Community Right-to-Know Act (EPCRA).

12-3 Terms and Definitions

12-3.1 Facility. For the purposes of this chapter, a facility is a contiguous piece of land with structures, other appurtenances, and improvements under common ownership or control, fence line to fence line.

12-3.2 Hazardous Waste. The term "hazardous waste" means a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

a. Cause or significantly contribute to an increase in mortality or to a serious irreversible, or incapacitating reversible illness; or

b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

NOTE:

The term solid waste includes solid, liquid, semi-solid and contained gaseous material.

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State regulations may be more stringent and take precedence over Federal regulations.

12-3.3 Hazardous Waste Generator. Any person, by site, whose act or process produces HW or whose act first causes a HW to become subject to regulation.

a. **Class I Generator,** (Large Quantity Generator). Monthly generation quantity of 1000 kilograms (kg) (2200 pounds (lbs)) or more HW or 1 kg (2.2 lbs) or more acute HW.

b. **Class II Generator,** (Small Quantity Generator). Monthly generation quantity of 100 - 1000 kg (220 - 2,200 lbs) HW and less than 1 kg (2.2 lbs) acute HW.

c. **Class III Generator,** (Conditionally Exempt Small Quantity Generator). Monthly generation quantity less than 100 kg (220 lbs) HW or less than 1 kg (2.2 lbs) of acute HW. Such generators are exempt from substantially all RCRA requirements. Further discussion is found in reference (e).

12-3.4 Infectious Waste. Infectious waste is liquid or solid waste capable of causing transmission of disease in human when the following factors are present:

a. There must be the presence of a pathogen, which is a microorganism that can cause infection. Many microorganisms are incapable of causing infection in humans.

b. The pathogen must be of sufficient virulence, which is the disease evoking power of the microorganism. Not all pathogens are equally capable of causing infectious disease.

c. The pathogen must be present in sufficient numbers of microorganisms for infection to occur.

d. The microorganisms must have a portal of entry, or a way to get into the body (either through mucous membranes, or a puncture, cut or wound).

e. There must be a susceptible host. All persons are not equally susceptible to infectious diseases (reference (t)). The categories listed below are to be considered infectious waste:

(1) Medical wastes from isolation rooms are often considered infectious waste. However, only those items that are contaminated or likely to become contaminated with infective material are defined as infectious waste.

(2) Microbiological wastes including cultures and stocks of etiological agents containing microbes that, due to their species, type, virulence, or concentration are known to cause disease in humans. Examples include specimens from medical and pathology laboratories, discarded live vaccines, wastes from production of biologicals, cultures and stocks of infectious agents from clinical research and industrial laboratories, and disposable culture dishes and devices used to transfer, inoculate, and mix cultures.

(3) Blood and blood products including waste blood, serum plasma, Pleurevacs, and hemovacs

(4) Pathological wastes including human tissues and organs, amputated limbs or other body parts, fetuses, placentas, and similar tissue from surgery, delivery, or autopsy procedures

(5) Sharps (discarded medical devices that have been used in animal or human patient care), including hypodermic needles, syringes, trocars, blood vials, scalpel blades, Pasteur pipettes, specimen slides, cover slips, glass petri plates, and broken glass potentially contaminated with infectious material

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(6) Contaminated animal carcasses, body parts, and bedding, including contaminated animal carcasses, body parts, and bedding of animals that were intentionally exposed to pathogens.

12-3.4.1 The following items are not considered infectious:

a. Absorbent materials containing small amounts (<20 ml) of blood or body fluids and no free flowing or unabsorbed liquid.

b. Used products for personal hygiene, such as diapers, facial tissues and sanitary napkins.

c. Disposable products used during routine medical or dental procedures (e.g., rubber gloves, rubber dams, cotton and paper products, equipment trays, tubing and catheters).

d. Empty pill bottles and intravenous (IV) bags.

e. Expired, unused culture tubes and plates.

f. Packaging and overwrap.

12-4 Requirements

12-4.1 Hazardous Waste

a. **General.** Any activity that generates, transports, treats, stores, or disposes of HW and any activity that produces, burns, distributes, or markets any HW-derived fuels must notify the EPA or State environmental agency of their activities, obtain an EPA or State HW generator identification (ID) number, and comply with applicable Federal, State, and local HW laws and regulations. Federal activities located in a State with an EPA authorized HW program need only comply with such State HW law that has been authorized by the EPA. Federal activities located in a state with only a portion of an EPA authorized HW program will comply with Federal HW laws, and the authorized portion of state HW laws. State HW programs that have been authorized by EPA operate in lieu of RCRA. Compliance with applicable State and local HW regulations is also required.

b. **Identification of HW.** Generators must identify and designate all waste streams to determine if the waste streams are HW. HW is either "listed" (specifically named in Federal/State regulations) or may exhibit any of four characteristics:

(1) Ignitability

(2) Corrosivity

(3) Reactivity

(4) Toxicity (as determined by the toxicity characteristics leaching procedure (TCLP) or additional procedures under State law).

A determination of whether any of these four characteristics apply to a waste can be made by checking the definitions in the appropriate Federal and State regulations, comparing the properties of the waste to those that define HW, or by using EPA-approved test methods. Mixtures of a solid waste and a listed HW are also considered hazardous and are regulated under RCRA, unless such listed HW was listed solely because it exhibits a HW characteristic. Mixtures of solid waste and characteristic HW are considered hazardous only if the mixture still exhibits the hazardous characteristic.

NOTE:

Knowingly diluting a HW for the purposes of avoiding HW regulations is prohibited.

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If a material is determined to be a HW, it may be subject to all, some, or none of EPA's HW regulations, depending on specific circumstances. It is the generator's responsibility to determine whether its waste is a HW subject to regulation under RCRA and/or applicable state and local laws.

c. **HW Generation.** Threshold monthly generation rates and accumulation quantities are established in Federal or State regulations. Generation rates between 100 and 1,000 kilograms per month subject the generator, known as a "Small Quantity Generator," to HW generator requirements that include obtaining an EPA ID Number, using the Uniform Hazardous Waste Manifest to ship wastes off-site. Small quantity generators are only allowed to store HW without a permit or interim status for up to 180 or 270 days subject to the requirements of reference (e). If more than 1,000 kilograms per month are generated, the generator and the waste are subject to full regulation under RCRA.

Generators become storers if they accumulate HW for longer than the times prescribed in State and Federal regulations. According to Federal HW regulations, HW accumulation at a satellite accumulation point is limited to a cumulative maximum of 55 gallons of all (not each) HW, or one quarter of acute HW, and such storage must be located at or near the point of generation and be under the control at all times of the operator of the process generating the HW.

For Large Quantity Generators, any wastes in excess of 55 gallons (cumulative) must be moved within 72 hours to a less than 90 day accumulation area or a permitted storage facility. Accumulations of HW in excess of 55 gallons stored for more than 90 days (less in some States) require a storage permit. A Small Quantity Generator may accumulate HW on site for 180 days or less without a permit or without having interim status provided that the quantity of waste accumulated on-site never exceeds 600 kilograms, and provided the Small Quantity Generator complies with all other applicable regulations.

Generators are obligated to send their HW to treatment, storage, or disposal (TSD) facilities that comply with RCRA regulations. The generator must certify that the method the generator has selected for treatment, storage, or disposal is that practicable method available to the generator that minimizes the present and future threat to human health and the environment.

Generators must certify on the HW manifest that they have HW minimization (HAZMIN) programs in place at their sites. The programs will be designed to eliminate the use of HM altogether if possible, or at least reduce the volume and toxicity of the HW.

A generator who generates a HW subject to Federal land disposal restrictions will notify the TSD facility that the waste is a restricted waste or certify that the waste meets the requirements for land disposal.

d. **HW Transportation.** Transportation of HW off-site requires a manifest (see paragraph 12-4.1.f). A transporter is subject to transportation requirements that, in large part, incorporate Department of Transportation (DOT) regulations concerning labeling, marking, placarding, use of proper containers, and spill reporting. Transporters must have a valid HW hauler's license and ID number to pick up and haul within the generator's State and a valid license to haul through those States along the designated route to the TSD facility. Licenses may be checked by contacting the State HW office. Contact the Defense Reutilization and Marketing Office (DRMO) for license information regarding DRMO contractors.

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e. **HW Treatment, Storage, and Disposal.** TSD facilities need a permit to continue existing operations or to initiate new operations. EPA initially developed a two-part permitting procedure. A Part A application conferred interim status to an existing TSD facility allowing the TSD facility to operate until a final decision is made on the Part B final permit application.

TSD facilities may only be expanded or significantly changed and still remain in an interim status with the approval of EPA regional offices or the State HW office. Interim status cannot be conferred on a new TSD facility if operation commenced after 19 November 1980. In such instances, a final permit must be applied for and obtained before operation begin. Any operation before award of a Part B permit or modification of an existing Part B permit must be approved by the cognizant State or EPA.

Any existing facility that becomes subject to RCRA, due to new regulations or amendments to the existing regulations, may be granted interim status after timely submission of a Part A application and may have a 12 month grace period to submit its Part B permit application.

f. **HW Manifest System.** The Uniform Hazardous Waste Manifest, or State equivalent, must accompany all HW transported over any public road. Manifests are normally prepared, and must be signed by the HW generator or designated representative. The manifest does not replace Defense Reutilization and Marketing Office (DRMO) Disposal Turn-in Document (DD 1348-1). In circumstances where DRMO is managing the pickup, transport, and disposal of HW for an activity, DRMO may prepare the manifest, but the responsibility for correct and complete manifest preparation remains with the generator.

NOTE:

DRMO is, in most cases, not the HW generator and assumes none of the HW generator's responsibility for ensuring that wastes are correctly profiled and that manifests and all required documentation and reports are accurate and complete. DRMO may enter the facility's ID number on the manifest, but it remains the facility's responsibility to verify all information and to sign the manifest. If HM is turned-in to a DRMO for resale and is later determined by the DRMO to be HW, the DRMO is then considered to be the generator and will fulfill the generator requirements. Records must be kept and manifests returned to the activity that actually generated the HW.

Sufficient copies of the manifest will be provided to allow the generator, each transporter, and the TSD facility operator designated to receive the HW to keep a copy for their records and to allow copies to be returned to the generator for record-keeping and distribution to the appropriate State(s). Activities will also include a 24-hour manned duty telephone number in the "generator" block on each manifest. Each generator signatory will be authorized in writing to sign the manifest for the installation commander and/or permit holder, as appropriate.

g. **Reporting and Recordkeeping.** Generators will submit biennial reports (EPA Form 8700.13A) to the appropriate EPA regional office or designated State agency by 1 March of each even numbered year (Some States require an annual report, rather than the biennial report. Navy generators will also submit a Navy HW Annual Report to Naval Facilities Engineering Services Center (NFESC) each year. See paragraph 12-5.4). A HW generating activity must

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contact the TSD facility if a signed manifest has not been received within 35 days of the date the HW was shipped. Generators who do not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated TSD facility within 45 days of the date the HW was shipped, must file an exception report with the EPA or State, as appropriate.

Except as otherwise provided in State law, copies of manifests signed by the generator, the transporter, and the TSD owner or operator must be maintained for 3 years from the date the HW was accepted by the original transporter. Copies of reports filed with EPA will be retained for 3 years. Records of test results or waste analyses will be kept for 3 years from the date the waste was last sent to a TSD facility.

Generators of waste subject to land disposal restrictions must transmit notification to the TSD and maintain a copy for five years.

Transporters will report any discharge of HW in transit as specified in Federal regulations.

Operators of TSD facilities will, as applicable, submit annual or biennial reports on EPA Form 8700.13B or a State form to EPA regional offices or designated State agencies. A report of unmanifested waste must be filed with the State HW office within 15 days from the time a TSD facility accepts HW that is not accompanied by a manifest. Additional reports are required for specific types of TSD facilities.

h. **Federal Facility Compliance Act (FFCA).** The FFCA of 1992 subjects Federal facilities to all provisions of Federal, State, interstate, and local HW laws and regulations. The full range of available enforcement tools, including civil fines and penalties, are available to EPA, States, and local governments in enforcing these laws and regulations. FFCA exempts agents, employees, and officers of the United States from personal liability for any civil penalty arising from acts or omissions within the scope of their official duties. The installation or command whose activities most directly led to the violation(s) is responsible for payment of possible penalties with its operating budget or other available sources of funds.

FFCA also requires payment of any non-discriminatory fees or service charges assessed in connection with a Federal, State, interstate, or local HW regulatory program. This includes assessment in connection with the processing and issuance of HW permits, amendments to permits, reviews of plans, studies, and other documents; and the inspection and monitoring of facilities.

12-4.2 Radioactive Mixed Waste. Sometimes RCRA HW becomes mixed with radioactive waste, creating a combination that is regulated under both RCRA and the Atomic Energy Act. All policy and other matters pertaining to such radioactive mixed waste are handled by the Director, Naval Nuclear Propulsion (N00N), if the waste resulted from naval nuclear propulsion work, and by DCNO (Logistics) (N4) for all other Navy mixed waste. RCRA Generator requirements apply to mixed waste. Reference Navy Nuclear Propulsion Program (NNPP) policy on HW management.

12-4.3 Infectious Waste Management. Federal facilities that generate infectious waste are responsible for complying with State infectious waste regulations. Federal facilities that transport infectious waste across State lines are also responsible for complying with the transporter, disposal, and manifesting requirements for the State into which it is transported. Requirements for waste generated aboard ships can be found in Chapter 19.

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12-5 Navy Policy

12-5.1 General. The following elements of pollution prevention shall be incorporated into Navy HW processes:

a. HM considerations, especially those relating to environment, safety, and health shall be incorporated into the earliest stages of Integrated Logistics System (ILS) planning and acquisition.

b. Navy activities shall establish pollution prevention plans per Chapter 4 that address HM and HW and that encompass all aspects of health and safety of Navy personnel and protection of the environment.

12-5.2 Compliance with HW Management Requirements. Navy activities shall comply with applicable HW management requirements. Compliance with all aspects of an EPA-approved State HW management program is considered compliance with Federal requirements. Activities shall ensure that contractors performing work for the Navy on Navy property comply with all applicable requirements while on-site. If a State has a program that is not approved by EPA, Navy activities shall comply with both the State and Federal program requirements.

12-5.2.1 Applicability of RCRA to Navy Ships and Navy Shore Activities.

a. The 1992 FFCA provides that any HW generated on public vessels (which includes Navy vessels) shall not be subject to the storage, manifest, inspection, or recordkeeping requirements of RCRA until such waste is transferred to a shore facility, unless:

(1) The waste is stored on the public vessel for more than 90 days after the public vessel is placed in reserve or is otherwise no longer in service, or

(2) The waste is transferred to another public vessel within the territorial waters of the United States and is stored on such vessel or another public vessel for more than 90 days after the date of transfer.

Used and/or excess HM and solid waste transferred from a Navy ship to a Navy shore facility shall be managed by the shore facility in compliance with applicable HM, HW and solid waste regulations. For all used HM and solid waste determined by the shore facility to be HW, the shore facility shall be the HW generator and shall assume all responsibility for subsequent management of the HW except for funding. Ships or fleet accounts as appropriate shall reimburse the receiving shore facility for HW handling and disposal, and for lab testing if needed.

Ships' forces are required to follow the requirements of reference (o) with respect to the segregation, packaging, handling, safety, and labeling of HM. In addition ships shall segregate solid wasted in compliance with regulations of the State in which the waste is to be off loaded; the receiving shore facility shall provide information regarding waste segregation requirements. The "Used Hazardous Material" label required by reference (o) for every container of used HM transferred from the ship contains a process description of how the HM was used. If identification and labeling are not provided by the ship, the receiving shore activity may designate ship's used HM and solid waste based on laboratory analysis, and charge the ship or fleet accounts for lab testing, and any additional handling, documentation, administrative and overhead costs. (Accurate process descriptions based on special knowledge will often suffice to allow the receiving shore facility to designate waste, and is preferable to expensive lab testing).

Cooperative, "partnership" relations between shore facilities and ships are encouraged. Ships

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shall make every effort to ensure HM and solid waste are properly segregated, identified and transferred; receiving shore facilities shall make every effort to provide quality, timely service to the ships. Shore facilities may refuse to accept HM or solid waste from ships if the segregation, identification, or process description is insufficient or incorrect, though to do so would acknowledge a breakdown in the desired cooperative "partnership" relation. Problems experienced with HM or solid waste received from a ship should be reported to the ship's commanding officer (CO), and if flagrant or repeated, to the ship's immediate superior in command (ISIC).

Retrograde of HM/HW from activities outside the continental U.S. (OCONUS) is not considered importation of HW under the RCRA regulations. Following proper arrangements, Navy activities shall accept OCONUS DoD shipments of HW.

A ship scheduled for decommissioning shall remove all HM prior to the date of decommissioning, to the extent practical and appropriate. All HM shall be removed from the ship and processed by the supporting shore activity within 90 days after decommissioning.

Except where used HM is transferred from a tended unit to a tender, ships shall only transfer used HM to another ship during operations that preclude the ship entering a port in which normal offload may occur. Transfers of HM shall be for the sole purpose of returning the material to a supporting shore activity. Such transfers shall be approved by the operational commander prior to accomplishment. All used HM received by the receiving ship shall be offloaded within 5 working days of arrival at a U.S. Navy port.

b. **HM/HW from Navy Ships in Private Shipyards.** Federal contract law establishes several requirements regarding HW management under contracts, other than new construction, for work on board Navy ships in shipyards. Those requirements primarily affect Navy ships entering private shipyards for work administered by COMNAVSEASYSCOM; however, ships undergoing contracted work at Navy activities and under the cognizance of Commander, Military Sealift Command (COMSC) and Commander, Naval Supply Systems Command (COMNAVSUPSYSCOM) are also affected. These requirements are discussed in Chapter 19.

c. **Transporting Shore-Generated Hazardous Waste Aboard Ship.** The Navy has not applied for and ships have not been granted an identification number by EPA for transport of HW. Therefore, ships shall not accept HW from a Navy shore activity, either within or outside the U.S., for transportation to another activity or facility, either within or outside the U.S. for processing and disposal.

12-5.2.2 Applicability of RCRA to Military Munitions and Ordnance. Navy and DoD current policy is that military munitions and ordnance are not a HW subject to regulation under RCRA until there is an intent for DoD to dispose of or destroy them. Sites used for disposal or destruction of ordnance by open burning or detonation, not related to training or Explosive Ordnance Disposal (EOD) emergency action, are subject to RCRA regulations. In that regard:

a. Assignment of munitions or ordnance to the Special Defense Property Account or Centralized Demilitarization Account does not by itself constitute a designation as a HW. Those munitions are, rather, awaiting a final decision of use, reuse, reclamation, sales, or demilitarization.

b. RCRA HW requirements are applicable to the demilitarization process at the point where a determination is made in writing by an authorized DoD representative that the munition shall

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be discarded rather than retained as an item of military ordnance.

c. After the decision is made to dispose of or destroy a military munitions or ordnance, such items shall be managed per RCRA requirements and strictly under DoD regulations. Any resultant products generated by a demilitarization process, such as ash, sludge, or a residue, shall be analyzed to determine if it is a RCRA HW and managed according to analytical results.

d. Explosive Ordnance Disposal (EOD) emergency response is a non-routine operation conducted to abate an imminent and substantial hazard to public health, safety, or property, and such operations are not subject to regulation under RCRA. If, however, the site is used for open burning or open detonation to dispose of or destroy munitions or ordnance not related to training or emergency operations, then such sites are subject to regulation under RCRA. RCRA requirements do not apply to EOD sites used solely for training or to sites used for emergency operations.

e. Munitions and ordnance firing/explosive activities for training, research and development, and quality assurance/quality control testing purposes shall not be considered demilitarization or disposal operations. Further, RCRA regulations are not applicable to the associated firing tables or impact ranges (as long as such areas are not used for demilitarization or disposal purposes).

f. Off-specifications small arms ammunition of calibers up to and including 50 caliber shall not be considered "reactive" within the definition in RCRA. They could, however, be HW for some other reason such as toxicity.

g. Navy installations shall comply with appropriate RCRA permitting requirements for demilitarization operations for conventional munitions and ordnance. Permits obtained shall adhere to existing DoD procedures and provide for adequate protection of human health and the environment and shall avoid unnecessary administrative burdens or operational requirements that would limit DoD's flexibility in managing its demilitarization program.

h. The FFCA requires EPA, in consultation with DoD, to issue regulations on the application of RCRA to military conventional and chemical munitions. EPA is to examine DoD safety requirements and take them into account when issuing any regulations necessary to protect human health and the environment. When issued, these regulations shall further clarify the applicability of RCRA to conventional and chemical munitions.

i. The management of explosive HW components and associated explosive wastes shall be included in activity HW Management Plans.

12-5.3 HW Management Plans. Every Navy shore activity that generates HW shall develop and use a HW management plan, or a HW management component in its Pollution Prevention Plan. A HW management plan or component(s) shall:

a. Identify applicable Federal, State, and local regulations pertaining to the generation and management of HW.

b. Identify training requirements, and describe procedures for obtaining training and maintaining training records.

c. Assign responsibilities for the generation, designation, handling, treatment, disposal, and all documentation.

d. Describe all HW generation and management procedures.

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e. Include or reference HW minimization plan and goals.

f. Include or reference contingency plans and emergency response procedures.

The plan or component shall be kept up to date to include changes in HW generation and uses, as well as, changes in applicable Federal, State, and local HW regulations. The plan or component shall include or reference minimization procedures sufficient to achieve DoD minimization goals. Tenant activities may be covered by the host CO's HW management plan.

12-5.4 Navy HW Annual Report. All Navy shore activities worldwide that generate, store, treat and/or dispose of HW, shall prepare an annual calendar year report (Report Symbol DD-A&T(SA) 1485 (5090)), per guidance provided by Naval Facility Engineering Service Center (NFESC). The completed annual report shall be mailed by 1 February to NFESC with a copy to the major claimant. Class I and II generators (as defined by EPA regulations), shall report separately and directly to NFESC. Class III generators who are tenants shall be accounted and reported for by their host activity. Class III generators not under a host command shall report separately and directly to NFESC. One-time wastes from spills and installation restoration actions shall be reported as a separate category and not counted as generated quantities for HW minimization purposes. Only waste meeting the definition of HW (listed or characteristic) shall be reported. See Chapter 14 for a discussion of other solid waste reporting.

12-5.5 Navy and Defense Logistics Agency (DLA) Interface on HW. The DLA's Defense Reutilization and Marketing Service (DRMS) is designated the responsible agency for worldwide disposal of all HW. However, reference (k), permits COs to contract directly for HW disposal service when, "...they can get a combination of quality, responsiveness, and cost that best satisfies their requirements." The Assistant Secretary of Defense (Production and Logistics) (ASD(P&L)) in a memorandum dated 9 August 1989 (NOTAL) reemphasized the CO's prerogative to dispose of HW directly and specifies that, "...such decision should be concurred in by the component chain of command to ensure that installation contracts and disposal criteria are at least as stringent as criteria used by DRMS".

Navy installations shall use DLA HW contract disposal services as much as economically and operationally feasible. However, for those wastes not managed by DLA, or when necessary to get the combination of quality, responsiveness, and cost that best satisfies installations requirements, Navy installations may request some other appropriate contract authority to provide contracting services for HW disposal. An installation not using DRMS contract services shall insure the contract requirements comply with Federal, State, and local HW regulations, shall ensure contract requirements and contract quality control procedures are at least as stringent as those used by DRMS, shall obtain concurrence by their major claimant, and shall notify CNO (N45) of each contract for such services. Generator liability and responsibilities are the same whether using DLA HW contracting services, or any other HW contracting service.

12-5.6 HW Minimization. Navy activities shall reduce HW generation and disposal per reference (n) and by implementing a combination of the following procedures and processes in priority order:

a. Eliminating and/or reducing, at the source, the use of HM by changing the process, requirement, or materials used.

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b. Substituting a less hazardous/toxic HM in the process.

c. Reducing and/or eliminating the generation of HW by production process or equipment changes.

d. Recycling/recovery and reuse of HM.

e. Reducing and/or eliminating excess and expired shelf-life HM.

f. Treating HW to reduce the volume or to reduce it to a less toxic or non-hazardous state.

g. Destruction of HW.

h. Disposal, as a last resort.

When requirements in technical directives or weapons system procedures require use of HM beyond the control of the activity, appropriate action shall be taken to advise the cognizant Echelon 2 command of the need for appropriate action.

12-5.6.1 Certification. Federal laws and regulations require certification on HW manifests that the activity, insofar as is economically practicable, has a program to minimize the volume and toxicity of wastes generated. To make such a certification, Navy activities shall have a pollution prevention plan or hazardous waste minimization plan with Plan of Action and Milestones (POA&M). See Chapter 3.

12-5.6.2 Goals. The long-term Navy goal is to eliminate HW disposal to the maximum possible extent by eliminating the use of HM and/or by implementing best management practices (BMPs) and best demonstrated available technology (BDAT).

12-5.7 Training

a. Every person who produces, packages, handles, treats or transports hazardous waste shall have received applicable NAVOSH Worker Right-to-Know Training on hazardous materials, shall receive applicable training as shown on Figure 12.1, and shall receive job specific training regarding hazardous waste safety, packaging, labeling, handling, documentation, transportation and turn-in procedures specific to their installation. Training curriculum shall be tailored to include State and local HW laws and regulations. Training records and documentation shall be maintained by each command as required by Federal, State and local regulations.

b. Every person involved in hazardous waste management at naval shore facilities shall receive general environmental overview training specified in Chapter 24 of this instruction, shall receive specific comprehensive training on Federal, State and local HW regulations related to their job assignment as shown on Figure 12.1, and shall be familiar with the provisions of this chapter.

c. Environmental professionals at COMNAVFACENGCOM and Engineering Field Division (EFDs)/Engineering Field Activities (EFAs), Navy Regional Environmental Coordinators, major claimant and type commander environmental staffs, and legal environmental staff shall receive general environmental overview training specified in Chapter 24 of this instruction, introductory or executive overview training in hazardous waste management, and shall be familiar with the provisions of this chapter.

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Health and Safety Training Requirements for Hazardous Waste and Emergency Response

Hazardous Waste Clean-Up Sites

Staff

• Routine site employees	40 hours initial 24 hours field 08 hours annual refresher 24 hours supervised field
• Routine site employees (minimal exposure)	24 hours initial 08 hours field 08 hours annual refresher
• Non-routine site employees	24 hours initial 08 hours field 08 hours annual refresher

Supervisor/Managers of

• Routine site employees	40 hours initial 24 hours field 08 hours hazardous waste management 08 hours annual refresher
• Routine site employees (minimal exposure)	24 hours initial 08 hours field 08 hours hazardous waste management 08 hours annual refresher
• Non-routine site employees	24 hours initial 08 hours field 08 hours hazardous waste management 08 hours annual refresher

Treatment, Storage, and Disposal Sites

Staff

• General Site employees	24 hours initial or equivalent 08 hours annual refresher
• Emergency response personnel	Trained to a level of competency Annual refresher

Note: See 29 CFR 1910.120 (q) and (q)(7).

Other Emergency Response Staff

Level 1 - First responder (awareness level)[1]	Sufficient training or proven experience in specific competencies
Level 2 - First responder (operations level)[2]	Level 1 competency and 8 hours initial or proven experience in specific competencies
	Annual refresher
Level 3 - HAZMAT technician[3]	24 hours of Level 2 and proven experience in specific competencies
	Annual refresher
Level 4 - HAZMAT specialist[4]	24 hours of Level 3 and proven experience in specific competencies
	Annual refresher
Level 5 - On-the-scene incident commander[5]	24 hours of Level 2 and additional competencies
	Annual refresher

Note: See 29 CFR 1910.120 (q)(6).

1 *Witnesses or discovers* a release of hazardous materials and who is trained to notify the proper authorities

2 *Responds* to releases of hazardous substances in a defensive manner, without trying to stop the releases

3 Responds aggressively to stop the release of hazardous substances

4 Responds with and in support to HAZMAT technicians, but who has specific knowledge of various hazardous substances

5 Assumes control of the incident scene beyond the first-responder awareness level

Figure 12.1

12-6 Responsibilities

12-6.1 COMNAVFACENGCOM shall:

a. As requested, provide technical assistance to major claimants and activities in complying with Federal, State, and local HW laws and regulations, and in the preparation of activity HW management, HAZMIN AND Pollution Prevention Plans.

b. Prepare an annual "Navy Hazardous Waste Annual Report." The report shall show plans and progress toward achieving goals by each major claimant and the Navy as a whole, and other information as directed by CNO (N45).

c. Assist ships, claimants, and shore activities in reaching a long-range goal of elimination of HW disposal to the maximum extent possible.

d. Designate and supervise Public Works Centers (PWCs) in receiving, storing, and shipping HW. Designated PWCs shall provide regional HW storage facilities and contract disposal for Navy HW.

e. As requested, assist shore activities in obtaining permits for all new HW management facilities.

f. Pay fees for applications and permits for construction of Military Construction (MILCON) funded HW management facilities from funds appropriated for the project.

12-6.2 COMNAVSUPSYSCOM shall:

a. Establish and implement a HMC&M program as required by reference (n), throughout the supply system.

b. Maintain and update procedures and instructions to ensure that transportation, storage, and handling of HM/HW fully complies with applicable regulations.

c. Develop a program for the acquisition, stocking, and supply of conforming containers required for the transportation and storage of HW.

d. Include provisions in inter-service support agreements (ISSA) with DLA for DLA/DRMS/DRMO support of HW requirements Navy-wide.

12-6.3 Director, Naval Nuclear Propulsion (N00N), is responsible for all matters pertaining to radioactive mixed waste resulting from naval nuclear propulsion plants.

12-6.4 Chief, Naval Education and Training shall develop and provide training on the safety and occupational safety and health aspects of HW and HM to applicable Navy personnel.

12-6.5 BUMED shall:

a. Ensure reference (q) instruction on infectious waste management for Navy medical treatment facilities is current.

b. Ensure that subordinate commands comply with Federal, State, local and Status of Forces Agreement (SOFA) requirements regarding the identification, generation, handling, storage, transport, treatment, and disposal of infectious waste.

12-6.6 Major claimants and subordinate commands shall:

a. Ensure that their activities comply with applicable Federal, State, and local HW laws and regulations.

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b. Ensure subordinate commands develop and use HW management plans or HW management component of Pollution Prevention Plan as required by section 12-5.3.

c. Budget and allocate sufficient resources to ensure shore activities manage HW per all applicable Federal, State, and local HW laws and regulations, including the assignment and training of operational and management personnel, operation and maintenance of equipment and facilities, transport and disposal of waste, etc.

d. Ensure their activities comply with Navy HM and HW management and reporting requirements.

12-6.7 Commanding officers of shore activities shall:

a. Develop and use a HW management plan, or HW component of a Pollution Prevention plan as required by section 12-5.3 of this chapter.

b. Budget, fund and manage HW in full compliance with applicable substantive and procedural Federal, State and local HW laws and regulations.

c. Cooperate with Federal, State, and local HW regulatory officials.

d. Provide reports and other required data and information to Federal, State and local HW regulatory agencies.

e. Submit an annual Navy HW report to NFESC.

f. If CO of host activities, serve as the HW generator for the "site" or "facility" as defined by the applicable regulatory agency, and obtain and maintain applicable HW generator ID number.

g. If CO, or officers in charge of a tenant activity, comply with the policies of this manual, and with written HW management plans established by the host CO.

h. Provide training for all personnel involved in HW management and operations under applicable Federal, State, and local requirements.

i. If in charge of port facilities receive HM from ships and process it for reuse or disposal per applicable Federal, State, and local regulations.

j. If a generator of infectious waste:

(1) Comply with the infectious waste management procedures specified in reference (q).

(2) Determine, evaluate and comply with Federal, State, local, or SOFA regulations that are more stringent than the requirements in reference (q).

(3) Request technical assistance, as required, from cognizant NAVFACENGCOM or BUMED in carrying out required actions.

(4) Budget and fund the operation and maintenance of facilities and equipment necessary to handle, store, transport, treat, and dispose of infectious waste per applicable Federal, State, local, or SOFA regulations.

12-6.8 Commanding officers of shore activities assigned to receive used/excess HM, solid waste or infectious waste from ships and HW from other shore activities shall:

a. Receive ship used/excess HM and solid waste and process it for reuse or for disposal as HW per Federal, State, and local environmental laws and regulations.

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b. Provide accessible facilities to receive HW and to store it per applicable EPA and/or State regulations until the material is disposed or transferred to DLA.

c. Provide accessible facilities to receive and store infectious waste per applicable Federal, State, local, or SOFA regulations until disposal of the materials.

d. Provide for disposal of infectious waste per applicable Federal, State, local, or SOFA regulations.

e. Manage infectious wastes in foreign countries to assure protection of human health and the environment as well as meet any applicable SOFA requirements.

12-6.9 Fleet CINCs and type commanders, as appropriate, shall:

a. Reimburse Navy shore activities receiving ship's used/excess HM and solid waste for expenses incurred for laboratory analysis, HW handling, storing, and disposal.

b. Reimburse Navy shore activities receiving ships' infectious waste for expenses incurred in handling, storing and disposing of the material.

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CHAPTER 13

PESTICIDE COMPLIANCE ASHORE

13-1 Scope

13-1.1 This chapter provides safety and compliance requirements and policy relative to the legal use of pesticides at Navy shore facilities. The requirements apply within the United States, possessions, and trust territories. Navy policy with respect to activities in foreign countries is provided in Chapter 18. Navy policy with respect to pest management aboard naval vessels is provided in Bureau of Medicine and Surgery (BUMED) Preventive Medicine Manual and other Commander in Chief (CINC) directives.

More detailed requirements and responsibilities relative to the application and regulation of pesticides at Navy activities are in reference (f). Other topics pertinent to pesticides include prevention of pollutants in wastewater, which is discussed in Chapter 7; spill prevention and management, which is discussed in Chapter 10; and management of hazardous waste (HW), which is discussed in Chapter 12.

13-1.2 References. Relevant references are:

a. 29 CFR 1910, Occupational Safety and Health Standards;

b. 40 CFR 150-186, Environmental Protection Agency (EPA) Regulations for Pesticide Programs;

c. 40 CFR 262, EPA Regulations for Hazardous Waste Generators;

d. DoD Directive 4150.7 of 24 October 1983, DoD Pest Management Program; (NOTAL)

e. OPNAVINST 5100.23D, Navy Occupational Safety and Health Program Manual; (NOTAL)

f. OPNAVINST 6250.4A, Pest Management Program; (NOTAL)

g. NAVRESSOINST 5100.15 of 27 October 1987, Hazardous or Potentially Hazardous Products and Product Tampering; (NOTAL)

h. NAVMED P-5010, Chapter 8; (NOTAL)

i. Military Handbook 1028/8A of 1 November 1991, Design of Pest Management Facilities (NOTAL).

13-2 Legislation

13-2.1 Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA). CERCLA authorized Federal action to respond to the release, or substantial threat of release, into the environment of hazardous substance (HS), pollutants, or contaminants that may present an imminent and substantial danger to public health or welfare. Section 107(i) exempts application of pesticide products registered under Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) from CERCLA requirements.

13-2.2 Emergency Planning and Community Right-to-Know Act (EPCRA). EPCRA provides for protection and notification of communities in the event of a release of toxic chemicals for installations that store pesticides above established threshold quantities.

13-2.3 Endangered Species Act (ESA). ESA provides for the protection of threatened and endangered species of fish, wildlife, and plants

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and their habitats. The Act requires Federal agencies to ensure that no agency action is likely to jeopardize the continued existence of endangered or threatened species. Under the ESA, EPA is required to ensure that pesticide use is not likely to jeopardize endangered species or adversely modify critical habitats. Endangered species and critical habitat protection is implemented through the pesticide label and labelling process and issuance of State specific bulletins.

13-2.4 Federal Facility Compliance Act (FFCA). The FFCA waives immunity for Federal facilities under solid and hazardous waste laws CERCLA and the Resource Conservation and Recovery Act (RCRA) by allowing States to fine and penalize for violations. This is applicable only to pesticides that are a hazardous waste, or are managed or disposed of as hazardous wastes requiring management under RCRA. See Chapter 12.

13-2.5 Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). FIFRA provides the principal means for preventing adverse effects on the environment from pesticides through product registration and applicator certification. The registration of all pesticide products by EPA results in label instructions on each container for use, storage, and disposal. Label instructions are legally applicable to all users. It is unlawful to purchase, distribute, or use any pesticide that does not have an EPA registration number or for which registration has been canceled or suspended, or to apply, store, or dispose of any pesticide or container in any manner inconsistent with applicable regulations. Although FIFRA does not delegate enforcement responsibilities for Federal facilities to the States, many States have established Memoranda of Understanding (MOU) with the Department of Defense (DoD) regarding the procurement and use of pesticides, and on-site inspection of Navy installations.

Under FIFRA:

a. The pesticide label, regulated by EPA, establishes directions for use, precautions for preventing adverse environmental effects, and disposal requirements. Failure to adhere to the labeling requirements or using the substance in a manner inconsistent with the product label is a violation of Federal law.

b. EPA approves State and Federal agency plans for training and certification of pesticide applicators.

c. Pesticide applicators are required to keep records of restricted-use pesticide applications and shall make such records available for inspection and copying by representatives of EPA for a period of at least 2 years from the date of use of the pesticide. (See paragraphs 12-4.1 or 13-4.2.)

13-2.6 Federal Water Pollution Control Act as amended by the Clean Water Act of 1977 (CWA). The CWA provides for protection of surface waters from contamination by pesticides in wastewater and in land runoff. Control is exercised through stringent effluent limitations imposed through the National Pollutant Discharge Elimination System (NPDES) permitting program (see Chapter 8). Notification of pesticide spills exceeding established standards is required.

13-2.7 Migratory Bird Treaty Act. This act protects migratory birds, their nests and eggs from being hunted, captured, purchased, or traded. If pesticides are used to manage bird populations other than starlings, sparrows, and pigeons, a permit is required from the Fish and Wildlife Service.

13-2.8 Occupational Safety and Health Act (OSHA). OSHA establishes safety and health standards to ensure, so far as possible, every working man and woman in the nation safe and healthful working conditions.

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13-2.9 Resource Conservation and Recovery Act (RCRA). The disposal of excess or waste pesticides and equipment and containers contaminated by pesticides are integrated within the HW management requirements of RCRA. EPA identifies the criteria, standards, and requirements by which excess pesticides, pesticide containers, and wastes resulting from the cleanup of pesticide spills are considered HW. See Chapter 12.

13-3 Terms and Definitions

13-3.1 Activity Pest Manager (APM). A DoD-certified employee designated by the installation commanding officer, who is responsible for developing and coordinating the installation pest management plan.

13-3.2 Integrated Pest Management (IPM). IPM is a process for achieving long-term, cost-effective, environmentally sound, pest control through the use of a wide variety of technological and management practices, such as reducing food, water, harborage, and access used by pests. The program uses pesticides for short term control objectives, but relies heavily on multi-disciplinary applied facilities management practices.

13-3.3 Material Safety Data Sheet (MSDS). A document that accompanies a pesticide product, providing the handler with information on the compound's makeup, handling instructions, and potential hazards.

13-3.4 Pest. Any organism (except for micro-organisms that cause human or animal diseases) that adversely affects the well-being of humans or animals, attacks real property, supplies, equipment or vegetation, or is otherwise undesirable.

13-3.5 Pest Control Quality Assurance Evaluators (PCQAE). Installation personnel, trained in contract performance inspection or QAE and pest management, whose duties include surveillance of commercial pest management services to ensure performance complies with contract specifications.

13-3.6 Pest Management Consultant (PMC). PMCs are professional technical specialists who have command program oversight responsibilities and provide guidance and information on the management of pest populations for Navy and Marine Corps commands and installations.

13-3.7 Pest Management Plan. A written document for the design, execution, and maintenance of an installation pest management program.

13-3.8 Pesticide. Pesticides include any substances or mixtures of substances intended for preventing, destroying, repelling, or mitigating any pest. Substances used as plant regulator, defoliants, or desiccants are also considered pesticides. Pesticides do not include animal drugs or feed additives.

13-3.9 Pesticide Applicators. Any individual who applies pesticides or supervises the use of any pesticide by others to DoD property.

a. **DoD-Certified Pesticide Applicators.** Military or civilian personnel certified per the "DoD Plan for Certification of Pesticide Applicators" in the pest management category that are appropriate for the type work.

b. **State-Certified Commercial Pesticide Applicators.** Personnel certified by the State with an EPA-approved certification plan and certified in the category in which a pesticide will be applied.

c. **Uncertified Pesticide Applicators.** DoD or contractor personnel who work under the direct (line-of-sight) supervision of pesticide applicators certified under a DoD, or State program; or applicators who apply only pesticides authorized for use by uncertified personnel.

13-3.10 Pesticide Cancellation. An action by EPA that may limit the use of a pesticide. EPA often issues instructions, with the pesticide cancellation, to inform pesticide applicators of what

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to do with the canceled material in their possession.

13-3.11 Pesticide Management Facility. The building and areas designated for handling and storing pesticides.

13-3.12 Pesticide Suspension. An act by EPA that places an immediate ban on a pesticide that may constitute an "imminent hazard" to man or the environment. In order to issue a pesticide suspension, EPA must have announced either its intention to cancel the pesticide or to change the pesticide classification.

13-3.13 Registered Pesticide. A pesticide that has been registered and approved for sale or use within the United States or the host nation.

13-3.14 Restricted-Use Pesticide. An EPA classification for pesticides that may potentially cause unreasonably adverse effects on the environment, including injury to the applicator even when label directions are followed. EPA restricted-use pesticides may be procured and used only by certified pesticide applicators, or by personnel under their direct supervision.

13-3.15 State Limited-Use Pesticide. A classification used by States to identify pesticides that are State restricted in their uses but not necessarily EPA restricted-use pesticides.

13-4 Requirements

13-4.1 Certification. Federal or State commercial certification is required for applicators of restricted-use pesticides.

13-4.2 Records and Recordkeeping.

a. Navy installations will maintain complete daily pesticide application records on site for a minimum of 3 years. These records must account for all pest management facility operations, and provide a historical record of pest control operations and pesticide applications for each building, structure, or outdoor site. The report will include all pesticide applications performed on the installation, such as work done on golf courses, by non-appropriated fund activities, by contract services, and as part of outleases, land management, Morale, Welfare and Recreation (MWR) and forestry programs as well as work performed by installation pesticide management personnel.

b. Programs or projects that involve aerial application of pesticides have potential for adverse environmental effects, therefore Navy activities will submit plans for these operations before execution to the appropriate pest management consultant or the Armed Forces Pest Management Board (AFPMB).

c. Navy installations will make available to the State Emergency Response Commission (SERC) or the Local Emergency Planning Committee (LEPC) copies of MSDSs or a list of hazardous substances within the facility.

d. The recordkeeping and reporting requirements prescribed in reference (f).

13-4.3 Pesticide Suspension/Cancellation. Pesticides that have been cancelled may not be used unless allowed by EPA in the cancellation notice. Suspended pesticides will not be used until further notice from EPA.

13-4.4 Wastewater Discharges. The discharge of any wastewater from any pesticide formulation, mixing, or equipment cleanup area is prohibited unless permitted under an NPDES. Hazardous waste and storage requirements apply. See Chapter 12.

13-5 Navy Policy

13-5.1 Navy policy is to employ an integrated pest management program that minimizes pesticide use. Further, where additional regulation prevails, the Navy shall comply with substantive

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State and local pesticide regulatory guidance whenever possible. MOUs between DoD and a State for the use of pesticides on shore activities may also apply.

13-5.2 Training and Certification. Efficient management of pesticides requires DoD training and certification for pesticide applicators. Navy, military, and civilian personnel shall be trained under a DoD plan for certification of pesticide applicators. Such training shall include correspondence training, on-the-job training, and attendance at a pesticide applicators certification course sponsored by a DoD training center. The DoD Certification Plan is recognized by the EPA as fulfilling the requirements of FIFRA, and it meets or exceeds the quality of many State programs, which vary considerably. All issues concerning acceptance of State certification of DoD pesticide applicators shall be directed to COMNAVFACENGCOM via the cognizant PMC.

13-5.3 Disposal of Pesticides

a. **General.** Disposal of pesticides, their containers, and related wastes are stringently regulated, and the technology for disposal is changing rapidly. General guidance for HW applies to pesticide waste. Pesticide waste practices include minimization by using rinse water to formulate subsequent pesticides of the same type; ordering/mixing only what is needed for the application; and disposing of any HW per the installation HW management plan. Guidance for disposal is provided though the cognizant PMC on a case-by-case basis and reference (f).

b. A plan for pesticide spill management shall be addressed in the installation Pest Management Plan (PMP), coordinated with the installation's hazardous materials (HM)/HW programs, and included in the installation's HS spill contingency plans (see Chapter 10). Pesticide spill kits shall be ready-to-use in every pesticide storage/mixing facility, and in vehicles used to transport or apply pesticides. EPA regulations require the reporting of any spill that may enter groundwater, surface water, or potable water supplies. Spills (exceeding specific quantities) shall be reported immediately by telephone to the installation on-scene manager for oil and hazardous substance (OHS) spills and within 5 work days to the cognizant PMC. Spills of pesticides containing environmentally hazardous substances shall be reported under EPCRA (Chapter 4).

c. **Administration Procedures.** When EPA regulations are issued to cancel or restrict the use of pesticides, an expensive disposal problem may develop if installations do not immediately cease procurement and, if permitted, exhaust current stocks of the pesticides. In such situations, Navy commands shall be advised of the EPA suspense date and whatever actions are required for the proper disposal of the pesticide. The alternatives, to either exhaust stocks through use or to return material to the Defense Reutilization and Marketing Offices (DRMO), shall be determined by the AFPMB and the Defense Logistics Agency (DLA) based on inventories prepared by the installations. Guidance for disposal actions shall be disseminated through the cognizant PMC.

13-5.4 Pest Management Plans (PMPs). Installations that conduct pest management operations, whether by in-house personnel or by contract, shall develop, implement and maintain written comprehensive PMPs. Assistance for writing PMPs is available from the PMCs. The PMPs shall be specific to the installations or be a part of overall plans where pest management is provided by support installations. Pest management functions performed or contracted by tenant activities shall be performed under the host installation plan. Major claimants shall be included in the distribution of pest management plans. Plans are not required for government-owned-contractor-operated facilities (GOCO), but the real property and environmental conditions shall be monitored through on-site program reviews (observation) by a NAVFACENGCOM PMC.

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a. **Program Maintenance.** Programs and plans shall be maintained through technical on-site reviews by BUMED and NAVFACENGCOM PMCs and under any memoranda of agreement (MOA) in effect. The reviews shall determine installation compliance with the plans and project sheets, evaluate effectiveness of management operations, identify deficiencies, and provide additional recommendations to keep the installation plans current. These reviews shall ensure that installation programs comply with FIFRA and other applicable Federal and State regulations. Additionally, the technical review process shall support information requirements for other related efforts, such as the major claimant Environmental Compliance Evaluations (ECEs). The pest management reviews shall be conducted in conjunction with the major claimant ECE whenever possible.

13-5.5 Safety and Health in the Workplace. Workplace safety shall be monitored through the responsible safety offices.

a. **Industrial Hygiene.** Under Chapter 9 of reference (e), pest management operations shall be thoroughly evaluated to accurately identify and quantify potential health hazards. Industrial hygiene functions to accomplish the evaluation include workplace assessment, exposure assessment, workplace monitoring plan development, monitoring records, exposure evaluations, and periodic evaluations. An industrial hygienist shall evaluate the processes to accurately identify and quantify potential human health hazards.

b. **Medical Examinations.** The medical department of each command shall provide medical surveillance for Navy and civilian personnel engaged in routine pest management operations. Guidance for the medical surveillance shall be provided by the Pest Management Program, reference (f).

c. **Pesticide Labels.** All pesticide containers shall bear an EPA approved label (this requirement applies only to installations located in areas under U.S. EPA jurisdiction). Service containers used for formulating or transporting pesticides to job sites shall be marked with the appropriate signal words, the identification of the pesticides and concentrations, and the identification and location of the persons responsible for the containers. A copy of the complete EPA label for each pesticide used shall be available at each mixing site. Other labels, such as Department of Transportation placards or National Fire Protection Association labels, if required, shall not be placed so as to obscure the pesticide label information.

d. **Material Safety Data Sheet (MSDS).** Pest management facilities shall maintain MSDSs for each pesticide formulation stored or used at the installation. Pesticide applicators shall be familiar with the MSDS information for any pesticide to which they may be exposed in the workplace. That information shall be readily accessible to all pesticide applicators during their working hours.

e. **Pest Management Facility Requirements.** Pest management operations performed by activity personnel shall be directed from pest management facilities designed for this function. Design, construction, operation, and maintenance of Navy pest management facilities shall be in conformance with Federal regulations and State regulations, as appropriate. Guidance on these technical areas and information on pesticide use, storage, and disposal is available from the NAVFACENGCOM Engineering Field Division (EFD) PMCs. Detailed information on the design and operation of pest management facilities and workplace requirements can be found in reference (i).

13-5.6 Equipment. Individuals working with pesticides shall be supplied with personal protective materials and equipment, emergency decontamination facilities, and separate laundry facilities for work clothing. Pesticide management facilities are subject to Navy Occupational Safety and Health (NAVOSH) standards, and pesticide

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handling procedures are subject to EPA regulation.

a. **Personal Protective Equipment.** Appropriate personal protective equipment, i.e., face shields, respirators, eye protection, impermeable gloves, and protective clothing, shall be used by personnel engaged in pesticide application. Occupational safety and health standards in reference (a), the MSDS, reference (e), and the pesticide labels establish the requirements for protective equipment. Guidance for selection of protective equipment shall be obtained from the cognizant BUMED industrial hygienist or NAVFACENGCOM PMC or installation OSHA manager/respiratory protection program manager.

13-5.7 GOCO Facilities. Where pest management services are required as part of the maintenance management program on GOCO facilities, the Navy plant representative shall ensure that:

a. All pesticide use is reported as outlined in paragraph 13-4.2. Contractors shall report the information to the appropriate NAVFACENGCOM EFD PMC.

b. Commercial pest control contractors are properly licensed and certified by applicable State or local agency.

GOCO pest management programs shall be reviewed on-site every 5 years by a NAVFACENGCOM PMC. The review shall emphasize protection of real property and structures from biological deterioration, preventive maintenance, and environmental protection. Whenever possible, the pest management program reviews shall be part of the major claimant ECE.

13-6 Responsibilities (are defined in reference (f))

13-6.1 COMNAVFACENGCOM shall:

a. Provide on-site program planning and assistance to Navy shore activities in developing and maintaining integrated pest management program plans.

b. Ensure that GOCO pest management plans are reviewed on-site every 5 years.

c. Maintain regional training and recertification programs in cooperation with BUMED for civilian applicator personnel and training programs for PCQAE.

d. Provide guidance, assistance, and training on procurement, use of wood in structures and treated wood products.

e. Initiate and sponsor applied research, development, testing, and evaluation on pesticides, application equipment, and management procedures suitable for shore facility programs.

f. Provide Base Realignment and Closure (BRAC) support including caretaker pest management plans and specifications for affected shore facilities.

13-6.2 BUMED shall:

a. Provide technical guidance, recommendations, and on-site assistance to shore and fleet commands on all matters relating to disease vectors and other medically important pests.

b. Monitor and evaluate vector surveillance and control programs, maintain safe pest control functions, and provide technical guidance for disease vector surveillance, vector control, safety and occupational health issues.

c. Conduct evaluation and testing studies in vector ecology, surveillance, prevention, and control, including ground and aerial dispersal methods, for contingency operations.

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d. Provide training, certification, and recertification of vector control specialists and other medical department personnel and provide initial training and certification of civilian applicator personnel and nonmedical department personnel per NAVFACENGCOM and DoD standards.

e. Provide specialized, area-wide operational services including contingency response, medical entomology information, vector-borne disease assessments, and emergency disease vector control in the event of vector-borne disease outbreaks, disasters, or other situations where vector control is beyond the capability of local commands.

f. Define and coordinate research, development, testing, and evaluation requirements for vector biology and control.

g. Coordinate pest management guidance with the Navy Resale and Services Support Office (NAVRESSO).

h. Where requested, an industrial hygienist shall thoroughly evaluate processes in order to accurately identify and quantify potential human health hazards.

13-6.3 Commanding officers of shore activities shall:

a. Budget for costs to operate and maintain pest management facilities and programs in compliance with legal requirements.

b. Develop, implement, and maintain a written Pest Management Plan employing IPM strategies, and documenting all pest management operations and related costs.

c. Identify as early as possible and submit corrective projects to the major claimant required to bring all pesticide use, storage, pest management facilities, and disposal operations into compliance with applicable standards.

d. Maintain records of all pesticide applications except those for personal relief or those applications used to ascertain the performance of commercial pest services, primarily indoors.

e. Comply with the HW requirements in disposing of excess and waste pesticides.

f. Ensure that wastewaters discharged from pesticide mixing facilities are in compliance with applicable pretreatment or NPDES permit requirements and other applicable Federal, State, or local requirements.

g. Ensure that all pesticide transportation, storage, and formulation areas are addressed in activity HS release contingency plans.

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CHAPTER 14

SOLID WASTE MANAGEMENT AND RESOURCE RECOVERY ASHORE

14-1 Scope

14-1.1 This chapter identifies solid waste management, affirmative procurement, policy, and responsibilities within the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, Virgin Islands and the Commonwealth of the Northern Marianas Islands. The requirements do not apply to ships at sea, aircraft in the air, and forces on maneuvers. Navy policy for overseas activities is discussed in Chapter 18.

This chapter incorporates Executive Order (EO) 12873 of October 20, 1993 (replaces EO 12780), which pertains to Federal acquisition, recycling and waste prevention.

14-1.2 The management of Hazardous Waste (HW) is discussed in Chapter 12, and the reclamation and recycling of used oils is discussed in Chapter 9. Handling of solid wastes aboard ship is covered in Chapter 19.

14-1.3 References. Relevant references are:

a. 29 CFR 1910, Occupational Safety and Health Standards;

b. 32 CFR 172 (DoD Instruction 7310.1 of 10 July 1989), DoD Regulations for the Disposition of Proceeds from Sales of Surplus Property;

c. 40 CFR 240-241, Guidelines for the Thermal Processing of Solid Wastes and for the Land Disposal of Solid Wastes;

d. 40 CFR 243, Guidelines for Solid Waste Storage and Collection;

e. 40 CFR 244, Guidelines for Solid Waste Management of Beverage Containers;

f. 40 CFR 245, Guidelines for Resource Recovery Facilities;

g. 40 CFR 246, Guidelines for Source Separation for Materials Recovery;

h. 40 CFR 247, Guidelines for Procurement of Products that Contain Recycled Material;

i. 40 CFR 248, Guidelines for Federal Procurement of Building Insulation Products Containing Recovered Materials;

j. 40 CFR 249, Guidelines for Federal Procurement of Cement and Concrete Containing Fly Ash;

k. 40 CFR 250, Guidelines for Federal Procurement of Paper and Paper Products Containing Recovered Materials;

l. 40 CFR 252, Guidelines for Federal Procurement of Lubricating Oils Containing Re-Refined Oil;

m. 40 CFR 253, Guidelines for Federal Procurement of Retread Tires;

n. 40 CFR 255, Guidelines for Identification of Regions and Agencies for Solid Waste Management;

o. 40 CFR 257, Regulations on Criteria for Classification of Solid Waste Disposal Facilities and Practices;

p. 40 CFR 258, Criteria for Municipal Solid Waste Landfills;

q. 40 CFR 262.11, Hazardous Waste Determination;

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r. 40 CFR 268, Regulations on Land Disposal Restrictions;

s. DoD Directive 4165.60 of 4 October 1976, Solid Waste Management - Collection, Disposal, Resource Recovery and Recycling Program; (NOTAL)

t. DoD Instruction 7310.1 of 10 July 1989, Disposition of Proceeds from DoD Sales of Surplus Personal Property; (NOTAL)

u. DEPSECDEF Memorandum, 28 January 1983, Sales of Recyclable Materials. Interim Guidance for Establishing and Operating a Qualified Recycling Program Establishment and Implementation; (NOTAL)

v. DoD Memorandum, 18 August 1993, DoD Personal Property Disposal and Recycling. Guidance for personal property disposal and recycling operations; (NOTAL)

w. DoD Memorandum, 28 September 1993 Policy for DoD Recycling Clarification of scrap metal classification; (NOTAL)

x. DRMS (Defense Reutilization and Marketing Service) Directive No. 4160.5, 21 September 1988, Recyclable Materials Sales Program; (NOTAL)

y. SECNAVINST 1710.8, 29 November 1990, Morale, Welfare and Recreation (MWR) Resource, Recovery and Recycling Program (RRRP) Awards Program; (NOTAL)

z. SECNAVINST 4860.44F, Commercial Activities; (NOTAL)

aa. NAVFACENGCOM MO 213, Guidance on Solid Waste; (NOTAL)

bb. NAVFAC Design Manual 5.10, Civil Engineering Solid Waste Disposal; (NOTAL)

cc. NAVFAC P-442, Economic Analysis Handbook; (NOTAL)

dd. NFESC UG-2000-ENV, Solid Waste Management Plan (SWMP) Guide; (NOTAL)

ee. NFESC UG-2003-ENV, Qualified Recycling Program (QRP) Development Guide; (NOTAL)

14-2 Legislation

14-2.1 Federal Facilities Compliance Act (FFCA). This law significantly expands the enforcement authority of Federal and State regulators with respect to solid and hazardous waste (HW) management at Federal facilities. FFCA requires Federal facilities to pay any nondiscriminatory fees or service charges assessed in connection with a Federal, State, interstate, or local solid or HW regulatory program.

14-2.2 Military Construction Authorization Act of 1975. Allows the proceeds from the sale of recyclable material to be credited to the installation to, first, cover the cost of the recycling operation and, second, cover costs for environmental or energy conservation projects.

14-2.3 Military Construction Codification Act Section 6, 1982. Amends 10 USC 2577 to allow the use of recycling proceeds for MWR activities.

14-2.4 Occupational Safety and Health Act, 1970, 29 U.S.C. 651 et seq. Assures safe and healthful working conditions for men and women by authorizing enforcement of the standards developed under the Act; by assisting and encouraging the States in their efforts to assure safe and healthful conditions; by providing for research, information, education, and training in the field of occupational safety and health.

14-2.5 Solid Waste Disposal Act (SWDA) of 1965, as amended by RCRA. Requires that Federal facilities comply with all Federal, State,

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interstate, and local requirements concerning the disposal and management of solid wastes. Such requirements include permitting, licensing, and reporting. The SWDA encourages beneficial reuse of wastes through recycling and burning for energy recovery. Federal agencies are also required to procure EPA guideline products containing recovered materials to the maximum extent possible.

14-3 Terms and Definitions

14-3.1 Activity. An activity is an independent command performing a specific mission having its own Unit Identification Code (UIC).

14-3.2 Facility. For the purposes of this chapter, a facility is a contiguous piece of land with structures, other appurtenances, and improvements under common ownership or control, fenceline to fenceline.

14-3.3 Managing Activity. A managing activity is an administrative element assigned to manage the recycling program (including personnel, funds, and equipment).

14-3.4 Office Waste. Office waste means solid wastes generated in the buildings, rooms, or series of rooms in which the affairs of a branch of the government are carried on. Excludes waste generated in cafeterias, snack bars, or other food preparation and sales activities.

14-3.5 Office Workers. Office workers refers to military and civilian personnel other than janitorial and trade specialists.

14-3.6 Qualified Recycling Programs (QRP). QRPs are organized operations that require concerted efforts to divert or recover scrap or waste from the waste streams, as well as efforts to identify, segregate, and maintain the integrity of the recyclable materials in order to maintain or enhance their marketability. Reference (ee) covers issues such as: how to (guidance) and should do (policy), types of recycling programs, operational limits, funding procedures, internal controls, self audits, and ECE inspections (Chapter 20).

14-3.7 Recyclable Materials. Recyclable materials include materials diverted from the solid waste stream and the beneficial use of such materials. Recyclable materials do not include precious metal-bearing scrap and those items that may be used again for their original purposes or functions without any special processing; e.g., used vehicles, vehicle or machine parts, bottles (not scrap glass), electrical components, unopened containers of unused oil/solvent. Recyclable materials also do not include ships, planes, weapons, or any discarded material that must undergo demilitarization or mutilation prior to sale.

14-3.8 Recycling. Recycling is the result of a series of activities by which materials that would become or otherwise remain waste, are diverted from the solid waste stream by collection, separation, and processing, and are used as raw materials in the manufacture of goods sold or distributed in commerce, or the reuse of such materials as substitutes for goods made of virgin materials. For purposes of a QRP, scrap metal is a recyclable material (reference (v)).

14-3.9 Resource Recovery. Resource recovery means the recovery of materials or energy from solid waste.

14-3.10 Resource Recovery Facility. A resource recovery facility is any physical plant that processes non-hazardous, commercial, or institutional solid waste, biologically, chemically, or physically and recovers useful products, such as shredded fuel, combustible oil or gas, steam, metal, and glass for resale or reuse.

14-3.11 Solid Waste. "Solid waste" means any garbage, refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded

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material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permits under Section 1342 of Title 33, or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923) [42 U.S.C.A Sect. 2011 et seq.].

14-3.12 Source Reduction (Pollution Prevention). Source reduction refers to reducing, at the point of introduction into the process, the volume or toxicity of material used before the products are purchased, used or discarded. This includes reuse of materials, items, or products prior to recycling and extension of shelf life.

14-3.13 Source Separation. The separation of recyclable materials at their point of generation by the generator.

14-3.14 Waste Office Paper. Letterhead, dry copy papers, miscellaneous business forms, stationary, typing paper, tablet sheets, and computer printout and cards. Classified wastes are explicitly excluded, except as applicable security directives allow their inclusion.

14-4 Requirements

14-4.1 Solid Waste Collection and Storage. Federal, State, and local requirements concerning collection and storage apply to military facilities generating solid wastes, whether the solid waste is collected by the military or by a non-military collector.

Reference (q) requires any person who generates a solid waste to determine if that waste is a hazardous waste. Refer to chapter 12 for hazardous waste determination and management requirements.

14-4.2 Source Reduction. Federal, State, and local requirements concerning source reduction (pollution prevention) apply to Navy facilities. This technique of preventing waste is the preferred method of managing solid waste.

14-4.3 Solid Waste Resource Recovery. EPA, with the cooperation of Federal agencies, has surveyed Federal activities to determine activity solid waste disposal rates within Standard Metropolitan Statistical Areas (SMSA). If the total solid wastes disposed of for all Federal activities within an SMSA totals 100 tons or more per workday (equivalent to 26,000 tons or more annually) after implementation and source separation and other waste reduction procedures, and one of the agencies accounts for 50 or more tons per workday (equivalent to 13,000 tons annually), EPA will designate a lead Federal agency to plan, organize, and manage resource recovery activities for all the Federal agencies in the SMSA reference (f).

14-4.3.1 Resource Recovery Alternatives. Alternatives for disposition of recovered materials include:

a. Sale of the solid wastes through the Defense Logistic Agency (DLA); examples would be the sale of refuse to a commercial or community facility that processes the waste into a fuel, or the sale of recyclable materials.

b. Use of the solid waste as a fuel or fuel supplement at a Federal activity.

c. Participation in existing or planned civilian community or commercial resource recovery facilities or systems. Where warranted, such participation may include funding a pro rata share of a community facility.

d. Donation of waste materials to a voluntary or community organization, even when the materials are located on DoD owned, leased, or occupied facilities if:

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(1) Materials were not government purchased or generated.

(2) Materials, while owned or generated by DoD, are uneconomical for government supported collection/disposal.

e. Direct sale of recovered material by authorized shore installations.

14-4.3.2 Recyclable Materials Sales Program. After payment of costs of operation, maintenance, and overhead incurred in recycling program operation, up to 50 percent of any remaining funds may be used for pollution abatement. (Military Construction Authorization Act of 1975 and Military Construction Codification Act of 1982). See definition of recyclable material, 14-3.7, references (b) and (v).

Accumulation of proceeds from sales of recyclable materials is authorized only for installations that have a QRP. The guidance for setting up a QRP is found in reference (ee) which provides guidance for establishing and operating a qualified recycling program at Navy and Marine Corps installations. A QRP includes the following program requirements:

a. The managing activity will be designated by the activity commanding officer. Potential managing units are the Morale, Welfare, and Recreation (MWR) Department, the Environmental Department, the Supply Department, or the Public Works Department.

b. Means for maintaining fiscal accountability for all funds received and disbursed

c. Maintenance of records of the quantity and types of materials sold for recycling

d. Review of all projects funded with the proceeds of recycling sales by the same chain of command that would normally review such projects if funded from normal appropriations. An activity may notify DRMO and accumulate proceeds through the sale of recyclable materials during the period that an activity directive is being prepared.

e. Specific implementation of recyclable material sales requirements contained in this instruction

f. Notification of DRMO that the installation has a QRP as established by the Military Construction Codification Act and that the QRP is implemented by a directive or instruction.

g. Request to conduct direct sales of recyclable materials purchased with appropriated funds will be submitted per references (v) and (w) with a copy to CNO (N45) and major claimant.

14-4.4 Solid Waste Disposal. Local requirements apply to solid waste disposal operations on Federal property, regardless of whether the wastes are created by Federal or other sources. Reference (bb) gives base-specific solid waste disposal methods. Solid waste disposal operations off Federal property must also comply with local requirements if the agency has direct management control of the disposal operation.

14-4.4.1 Incineration of Solid Waste. Federal, State, and local requirements are applicable to incineration facilities designed to process 50 tons of solid wastes or more per day. The application of this capacity criterion will be interpreted to mean any facility designed to process, or which actually processes, an average of 2.1 tons or more per hour.

Emissions will not exceed existing air quality or emission standards established by EPA, State, or local agencies. All waters discharged from the facility will be sufficiently treated to meet applicable effluent limitation standards. All necessary permits will be obtained.

An incineration facility for solid wastes must be operated in conjunction with a final land disposal

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facility. Land disposal is required, under EPA guidelines and applicable State regulations, for residues from the incineration operation and those non-hazardous wastes that cannot be incinerated for reasons of health, safety, or technological limitation. Only those land disposal facilities with appropriate operating permits will be used for residues and non-combustible materials.

14-4.4.2 Disposal in Military Owned Landfills. A land disposal site will be designed, constructed, and operated to protect the health and safety of personnel associated with its operation. Pertinent provisions of the Occupational Safety and Health Act and attendant regulations will apply.

The location, design, construction, and operation of the land disposal site will minimize environmental hazards, and conform to the most stringent of applicable Federal, State, or local standards and requirements. Guidelines for operation and maintenance of a sanitary landfill are provided in reference (aa). See also reference (o).

14-4.5 Affirmative Procurement. All Navy activities are required to follow affirmative procurement programs for the purchase of EPA guideline items that contain recycled materials. This is mandated by Section 6002 of RCRA and supported by EO 12873. The EPA guideline items include paper and paper products, insulation materials, cement and concrete containing fly ash, retread tires, and lubricating oils containing refined oil.

The Navy is required by Section 6002(i) of RCRA to review annually the effectiveness of its affirmative procurement program and provide a report of its findings to the EPA's Office of Federal Procurement Policy (OFPP) by 15 December of each year.

14-5 Navy Policy

14-5.1 Property. Solid waste generated by Navy operations and actions on a Navy installation shall be considered government property for purposes of disposal except in those instances where Navy exchanges and commissary stores salvage and dispose of their recoverable resources. Solid waste generated by contractors on a Navy installation shall be governed under their contract requirements (see reference (u)).

14-5.2 Navy Solid Waste Management Disposal Programs. All Navy activities shall develop and implement Solid Waste Management Plans (SWMPs). The SWMP is a comprehensive study of all aspects of the activity's solid waste management program. It is the essential tool for developing and maintaining a solid waste program that is in compliance with all Federal, State, and local regulations and DoD/Navy instructions. Reference (dd) shall assist activities in developing these plans. A SWMP includes legal and regulatory framework, waste characterization, existing collection and disposal systems, recycling program assessment, source reduction, recordkeeping, assessments of future processing and disposal facilities, education and information, institutional needs, and assignment of responsibilities for carrying out various actions required of the plan.

These programs shall be designed as total systems that consider relative economic advantages of the latest technology as well as the potential for resource recovery. Activity SWMPs shall be developed using the following priority basis:

a. Source reduction

b. Recycling

c. Energy recovery

d. Waste treatment

e. Contained disposal.

It should be noted that not all solid waste must be containerized prior to disposal (but should be

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placed in appropriately designed and constructed landfills) as a last resort.

14-5.2.1 Reference (aa) provides guidance on requirements, maintenance, and operation of solid waste collection, storage, disposal, recycling, and energy recovery systems. MO-213 is available from Aviation Supply Office, Naval Publications and Forms Code 1013, 700 Robins Avenue, Philadelphia, PA 19110-5098.

14-5.3 Source Reduction. Navy source reduction or pollution prevention programs shall incorporate, where feasible, the following:

a. Composting to facilitate yard waste reduction.

b. Reducing excessive packaging, especially where packaging is used for attractive merchandisability or convenience functions.

c. Good housekeeping or best management practices.

d. Employee training.

e. Process modifications.

f. Procuring materials that generate less solid waste.

g. Reducing waste generation in the office by:

(1) Reusing materials (e.g. file folders, paper clips, interoffice routing envelopes, etc.)

(2) Dual-sided copying

(3) Using electronic mail instead of paper memos

(4) Reduced mailing and distribution list.

h. Making maximum use of the General Supply Administration (GSA) supply system for paper and paper products.

i. Any reasonable mechanism that successfully avoids, prevents, or reduces solid waste at the source.

14-5.4 Solid Waste Resource Recovery

14-5.4.1 Recycling. Navy activities shall comply with Federal, State, and local recycling laws, regulations, and policies. All Navy activities shall implement source separation for recycling and develop a single authorized QRP. All tenant activities shall participate in the host activity's QRP. Materials for which proceeds can be obtained shall be sold through the host activity's QRP. Industrial funded activities shall operate a separate authorized recycling program for materials purchased with industrial funds. Commissary and Navy exchanges may operate authorized recycling programs outside of a QRP. Reference (cc) provides guidance for the establishment/disestablishment of resource recovery/source separation programs.

An activity recycling program shall be established for the following purposes:

a. To comply with Federal, State, and local environmental laws and regulations

b. To reuse readily available resources

c. To avoid excessive costs for disposal of solid waste by other means (cost avoidance)

d. To reduce the volume of wastes disposed in landfills

e. To obtain proceeds from the sale of recyclable materials.

14-5.4.1.1 The following materials shall be segregated for recycling:

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a. Scrap metal (ferrous and nonferrous)

b. High-grade paper

c. Corrugated containers

d. Aluminum cans

e. Newspapers

f. Magazines

g. Office paper

h. Plastics

i. Wood

j. Other materials as market conditions allow.

Scrap metal includes firing range expended brass and mixed metals from firing range cleanup that do not require demilitarization.

14-5.4.1.2 If Federal, State, and local regulations do not apply to the recycling of the materials in 14-5.4.1.1, exceptions from recycling of those materials shall only be considered when:

a. Market analyses conducted by DRMO or the managing activity indicate that the recovered materials cannot be sold; or

b. The net costs exceed net income plus avoided costs for disposal by another means. Cost analysis factors are given in Appendix J.

14-5.4.1.3 Estimation of the market for recovered materials, including estimated return from sale and length of market availability, should be requested from DRMO prior to any source separation effort.

The organization responsible for sales in each Federal agency is responsible for market research.

14-5.4.1.4 The following additional materials shall be considered in the development of recyclable material markets:

a. Glass

b. Plastics

c. Newspapers from housing areas

d. Scrap wood

e. Other wastes as markets are found.

Economic analysis and market determination should be maintained on file at the managing activity and the resulting information incorporated into the SWMP.

14-5.4.2 Resource Recovery Facilities. Construction of Navy resource recovery facilities shall be considered only after a thorough study has been made of alternate methods of processing solid wastes.

14-5.4.3 Returnable Beverage Containers. In States that have beverage container recovery laws in force, Navy activities shall comply with such laws. Any conflicts between Federal (reference (e)) and State requirements, as well as any situations that preclude compliance, should be brought to the attention of DCNO (Logistics).

14-5.4.4 Records. Each installation shall make a determination as to what actions shall be or have been taken to adopt source separation requirements. In instances where a decision is made not to source separate, such decision shall be based on a fully supported rational analysis. To determine solid waste management requirements, each installation shall keep records of solid waste disposed of and materials recycled. Records shall be kept by the actual weight measurement (in tons) and also by material/product type. Each installation shall also keep records of quantities (measured by actual weight) and types of wastes

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that are recycled, proceeds from the sale of recyclable materials, and avoided costs for disposal.

14-5.4.5 After the establishment of an organized QRP, or concurrent with such program development, the installation shall coordinate with DRMO to determine whether the specific materials to be sold are actually recyclable materials. If a dispute occurs, the matter shall be referred through the chain of command for resolution. Recyclable material shall be sold by DRMO and 100 percent of the proceeds returned to the installation for use.

14-5.4.6 All Navy installations, including those which operate under Defense Business Operating Funds (DBOF), shall participate in the program.

14-5.4.7 Proceeds from the sale of recyclable materials at an installation with a qualifying recycling program shall be deposited to **F3875 "Budget Clearing Account (suspense)." The accumulation of funds in **F3875 is not affected by fiscal year end, so proceeds acquired during 1 fiscal year may be carried forward and merged with proceeds of subsequent fiscal years. The proceeds shall be segregated within the account to allow accounting as to the amounts collected and their disposition. Reference (t) details the disposition of proceeds from the sale of recycled material.

14-5.4.8 Proceeds shall first be withdrawn from **F3875 to cover costs of operations, maintenance, and overhead for processing and handling the recyclable materials (including the cost of any equipment purchased for recycling purposes). Military personnel shall not be reimbursed from the proceeds of this account. Accounting must be made for all operational costs.

14-5.4.9 If a balance remains, not more than 50 percent of that balance may be used at the installation for projects for pollution abatement, energy conservation, and occupational safety and health activities. Not more than 50 percent of a minor construction project shall be paid for with proceeds from recyclable material sales. Pollution abatement, energy conservation, and occupational safety and health projects shall not be included in the normal military construction program if sufficient recycling proceeds are available at the installation that requires the projects.

14-5.4.10 Any remaining balance may be transferred to one or more of the local non-appropriated funding instruments supporting MWR activities of the installation as defined in existing DON regulations.

14-5.4.11 If the balance of an installation's proceeds remaining in **F3875 exceeds $2 million at the end of a fiscal year, the amount in excess of $2 million shall be deposited into the U.S. Treasury as miscellaneous receipts.

14-5.5 Solid Waste Disposal. The Navy shall not open new solid waste disposal facilities except where it is in the clear interest of the Navy.

14-5.5.1 Navy-owned landfills shall be designed to meet the most stringent of Federal, State, or local regulations. Navy-owned landfills shall meet the following minimum criteria:

a. Avoid constructing major structures on a completed land disposal site because of unpredictable settling and emission of entrapped methane gas.

b. Do not locate the site in an area where the attraction of birds would pose a hazard to low-flying aircraft.

c. Evaluate the hydrogeology of the site to provide for the protection of ground water resources.

d. Construct and grade the land disposal site to promote rapid surface water runoff without excessive erosion.

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e. Ensure the landfill has a double liner with a leachate collection system.

f. Construct a groundwater monitoring system for the landfill.

g. Ensure the landfill has a leachate collection, monitoring and disposal system.

NOTE:

Leachate may be hazardous and could require a permit to discharge.

14-5.5.2 Navy waste materials, including trash, rubbish, dunnage, garbage, construction debris, and liquid wastes, shall not be burned in open fires, except in limited situations as determined by health or safety considerations and with the approval of the appropriate local agency, State agency, and EPA regional office.

14-5.6 **Navy Solid Waste Annual Report.** All Navy shore activities that generate more than one ton per day of solid waste shall prepare an annual fiscal year report per guidance provided by NFESC. (Report Symbol DD-A&T(SA) 1485 (5090)) The report shall be mailed to NFESC no later than 15 November with a copy to the major claimant. Host installations shall report for their tenant activities.

14-5.7 **Procurement of Products Containing Recovered Materials.** The Navy shall implement affirmative procurement preference programs for the purchase of products containing recovered materials. Affirmative procurement programs help recycling efforts by strengthening the markets that purchase recycled material. The Navy shall follow references (h), (i), (j), (k), (l), and (m), and EO 12873. These guidelines recommend procedures to develop the programs to ensure that the specifications for, and the procurement actions taken shall result in the increased use of recycled materials contained in the following products:

a. Building insulation materials

b. Cement and concrete containing fly ash

c. Paper and paper products; Assistant Secretary of Defense, (Production and Logistics) (ASD(P&L)) memo of 3 February 1993 (NOTAL), Preference for Recycled Paper, outlines policy to be implemented throughout the Navy, including the maximum use of the General Services Administration schedules for procurement

d. Lubricating oils containing re-refined oil

e. Retread tires.

14-6 Responsibilities

14-6.1 **COMNAVFACENGCOM** shall:

a. Be the technical focal point for solid waste management issues.

b. Maintain appropriate technical directives, design manuals, and operation manuals concerning solid waste source reduction, collection, storage, disposal, affirmative procurement, and resource recovery.

c. Assist, as requested, commanders and commanding officers of shore activities in developing resource recovery programs and SWMPs.

d. Develop and maintain solid waste reporting and information collecting systems.

e. Prepare and issue the Solid Waste Annual Report (SWAR) from the information collected.

f. Ensure that all contracts include, to the maximum extent practical, clauses or provisions that require contract deliverables that meet the affirmative procurement guidelines for recycled material content.

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g. Collect information to prepare the annual affirmative procurement program report for OFPP.

14-6.2 COMNAVSUPSYSCOM shall:

a. Investigate and develop methods to reduce packaging of materials supplied to the Navy.

b. Develop specifications for the purchase of items manufactured with recyclable materials.

c. Ensure that all contracts include, to the maximum extent practical, clauses or provisions that require contract deliverables that meet the affirmative procurement guidelines for recycled material content.

14-6.3 Major claimants and subordinate commands shall:

a. Ensure that activities under their command comply with current Federal requirements as well as applicable requirements of State, interstate, or local solid waste management agencies.

b. Ensure that all contracts include, to the maximum extent practical, clauses or provisions that require contract deliverables that meet the affirmative procurement guidelines for recycled material content.

14-6.4 Commanding officers of shore activities shall:

a. Develop SWMPs, including source reduction and recycling programs and resource recovery facilities that incorporate all Federal, State, and local requirements.

b. Cooperate with the activity or lessor that provides solid waste collection and disposal services in the establishment of source reduction, separation programs, and affirmative procurement programs if in a tenant status.

c. Cooperate with the designated standard metropolitan statistical area (SMSA) lead agency, if in a listed SMSA.

d. Provide an annual solid waste management report to NFESC no later than 1 February of each year, per paragraph 14-5.6.

e. Ensure that all contracts include, to the maximum extent practical, clauses or provisions that require contract deliverables that meet the affirmative procurement guidelines for recycled material content.

14-6.5 Commanding officers of fleet activities shall cooperate with the host activity while in port, and comply with the activity's solid waste management requirements.

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CHAPTER 15

INSTALLATION RESTORATION

15-1 Scope

This chapter discusses the Navy's Installation Restoration (IR) Program, including requirements, procedures, and responsibilities. The purpose of the IR Program is to identify, investigate and clean up or control releases of hazardous substances (HS) from past waste disposal operations and hazardous material (HM) spills at Navy activities.

The IR Program provides for compliance with the procedural and substantive requirements of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, commonly referred to as Superfund), as amended by the Superfund Amendments and Reauthorization Act (SARA), as well as regulations issued under these acts or by State law. Although the IR Program is primarily intended to clean up past releases of HS, it may address the cleanup of past releases of any pollutant and/or contaminant that endangers public health, welfare or the environment, including petroleum, oil, and lubricant products. Cleanup of past contamination from underground storage tanks (USTs) and corrective action for past contamination at Resource Conservation and Recovery Act (RCRA) sites may be part of the IR Program.

This chapter provides guidance on the investigation and cleanup of HS sites that are located within Navy installations, sites that have been contaminated by the migration of HS from Navy installations, and non-government owned sites that have been contaminated by the disposal of Navy-generated waste and other HS for which the Navy is a potentially responsible party (PRP).

The IR Program is limited to the United States, its territories and possessions, and does not apply in foreign countries.

The Navy/Marine Corps IR Manual provides detailed guidance on the execution of the IR Program at Navy installations and is included in this instruction by reference.

For cleanup at Base Realignment and Closure (BRAC) installations, specific guidance has been provided in the BRAC Cleanup Plan Guidebook of Fall 1993. This was provided to BRAC Cleanup Team Members by Deputy Under Secretary of Defense (Environmental Security) memorandum of 14 September 1993 (NOTAL).

This chapter implements two Executive Orders (EOs). EO 12088 of 13 October 1978, Federal Compliance with Pollution Control Standards, requires each Executive Agency to comply with applicable pollution control standards. Compliance with applicable pollution control standards means conforming to the same substantive, procedural, and other requirements that would apply to a private person. In EO 12580, Superfund Implementation, the President's authority under CERCLA and SARA is delegated to various Federal agencies, including DoD.

15-1.1 References. Relevant references are:

a. 29 CFR 1910.120, Occupational Safety and Health Administration (OSHA) Regulations on Hazardous Waste Operations and Emergency Response;

b. 40 CFR 264, Environmental Protection Agency (EPA) Regulations for Owners and

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Operators of Permitted Hazardous Waste Facilities;

c. 40 CFR 300, National Oil and Hazardous Substances Contingency Plan (NCP);

d. 40 CFR 302, EPA Designation, Reportable Quantities and Notification Requirements for Hazardous Substances Under CERCLA;

e. 40 CFR 355, EPA Regulations for Emergency Planning and Notification Under CERCLA;

f. 40 CFR 373, EPA Regulations for Real Property Transactions under CERCLA;

g. Navy/Marine Corps Installation Restoration Manual; (NOTAL)

h. Interim Report of the Federal Facilities Environmental Restoration Dialogue Committee, February, 1993; (NOTAL)

i. CNO ltr of 9 February 1994, Establishment of Restoration Advisory Boards (RABs); (NOTAL).

15-2 Legislation

15-2.1 Community Environmental Response Facilitation Act of 1992 (CERFA). Created to expedite reuse and redevelopment of Federal facilities being closed. Amends CERCLA Section 120(h)(4) by requiring the Federal government to identify excess real property at bases being closed where no HS or petroleum was stored, released, or disposed.

15-2.2 Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA). CERCLA authorized Federal action to respond to the release, or substantial threat of release, into the environment of HS, pollutants, or contaminants that may present an imminent and substantial danger to public health or welfare. CERCLA's emphasis is on the cleaning up of old/inactive HS sites and does not include spills of petroleum, oil and lubricants, although the Navy IR Program does include these contaminants. Reference (c), revised in February 1990, includes the national hazardous substance and response plan that establishes the procedures and standards for responding to releases of hazardous substances, pollutants, and contaminants. This regulation guides the CERCLA program.

15-2.3 Federal Water Pollution Control Act as amended by the Clean Water Act of 1977 (CWA). The CWA requires issuance of the NCP, the basic regulation that implements the statutory requirements of CERCLA, as well as Section 311 of the CWA. The NCP provides the organizational structure and procedures for preparing for, and responding to, discharges of oil and releases of HS, pollutants, and contaminants. The NCP also outlines actions required upon discovery and following notification of a release of a reportable quantity (RQ) of a HS.

15-2.4 Resource Conservation and Recovery Act (RCRA) as amended by the Hazardous and Solid Waste Amendments (HSWA). RCRA establishes a national strategy for the management of current solid waste and HW operations. Of importance to the IR Program is the requirement for corrective action for releases of HW and hazardous constituents at facilities that manage HW. Corrective action for past contamination of RCRA solid waste management units may be conducted under the IR Program.

15-2.5 Superfund Amendments and Reauthorization Act of 1986 (SARA). SARA was passed as Public Law 99-499 on 17 October 1986 to amend the authorities and requirements of CERCLA and associated laws. SARA provisions of primary importance to the IR program

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are CERCLA Section 120 which addresses response actions at Federal facilities and Section 211 which codifies the Defense Environmental Restoration Program (DERP) into law.

15-2.6 State Laws. Many States have laws that are analogous to CERCLA. Although CERCLA does not enable delegation of the Superfund program to the States, under CERCLA Section 120(a)(4), State laws concerning removal, remedial action, and enforcement apply to Federal facilities not listed on the National Priorities List (NPL). State laws must be consistent with CERCLA in order to apply to Federal facilities under Section 120(a)(4). To be consistent, State laws must: set out a comprehensive scheme for remedial enforcement; establish health-based standards through an objective process such as applicable or relevant and appropriate requirements; include cost effectiveness as an element; and be free of discriminatory application to Federal facilities.

15-3 Terms and Definitions

15-3.1 Defense Environmental Restoration Account (DERA). Section 211 of SARA establishes DERA to pay the cost of DoD responses to clean up HS sites. Funds from DERA are transferred to the services for uses consistent with the DERP.

15-3.2 Discharge. For purposes of the NCP, discharge, as defined by Section 311(a)(2) of the CWA, includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping of oil, but excludes discharges in compliance with a permit under Section 402 of the CWA, discharges resulting from circumstances identified and reviewed and made a part of the public record with respect to a permit issued or modified under Section 402 of the CWA, and subject to a condition in such permit, or continuous or anticipated intermittent discharges from a point source identified in a permit or permit application under Section 402 of the CWA, that are caused by events occurring within the scope of relevant operating or treatment systems. For purposes of the NCP, discharge also means threat of discharge.

15-3.3 Environment. The environment, as defined under CERCLA Section 101(8), includes the navigable waters, the waters of the contiguous zone, and the ocean waters of which the natural resources are under the exclusive management authority of the United States under the Magnuson Fishery Conservation and Management Act; and any other surface water, ground water, drinking water supply, land surface or subsurface strata, or ambient air within the United States or under the jurisdiction of the United States.

15-3.4 Facility. As defined under CERCLA Section 101(9), any building, structure, installation, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft; or any site or area where a HS has been deposited, stored, disposed of, placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel.

15-3.5 Hazardous Substance. Any material which, because of its quantity, concentration, or physical, chemical or infectious characteristics, may pose a substantial hazard to human health or the environment when released or spilled. For purposes of the IR Program, a HS is as defined in CERCLA Section 101(14) and designated under reference (d).

15-3.6 Imminent Threat. A threat posed by a site if human exposure in excess of applicable human health or environmental criteria is predictable prior to implementation of an effective remedial action or an operable unit thereof.

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15-3.7 Installation. The real property owned, formerly owned, or leased by the Navy, including a main base and any associated contiguous real properties identified by the same real property number.

15-3.8 Lead Agency. The agency that provides the on-scene coordinator (OSC)/remedial project manager (RPM) to plan and implement response action under the NCP. The Navy is always the lead agency for response actions on Navy real property.

15-3.9 National Priorities List (NPL). The EPA's list of the nation's highest priority sites that need to be cleaned up. Listing is based on a site's threat to the public health, welfare, or the environment using the Hazard Ranking System (HRS). Sites receiving scores above 28.5 (and having the highest potential for affecting public health, welfare, and the environment) are put on the NPL.

15-3.10 No Further Response Action Planned (NFRAP). Sites that do not warrant moving further in the site evaluation process are designated as NFRAP. The primary criterion for NFRAP is a determination that the site does not pose a significant threat to public health or the environment. NFRAP decisions can be made at several points in the IR process, but must be documented and may be reversed if future information reveals that additional remedial activities are warranted.

15-3.11 Operable Unit (OU). A discrete action that comprises an incremental step toward comprehensively addressing site problems. This discrete portion of a remedial response manages migration, or eliminates or mitigates a release, threat of a release, or pathway of exposure. The cleanup of a site can be divided into a number of operable units, depending on the complexity of the problems associated with the site. Operable units may address geographical portions of a site, specific site problems, or initial phases of an action, or may consist of any set of actions performed over time or any actions that are concurrent but located in different parts of a site.

15-3.12 Pollutant. As defined by Section 101(33) of CERCLA shall include, but not be limited to, any element, substance, compound or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformation, in such organisms or their offspring. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under Section 101(14) (A) through (F) of CERCLA, nor does it include natural gas, liquified natural gas, or synthetic gas of pipeline quality (or mixtures of natural gas and such synthetic gas). For purposes of the National Contingency Plan (NCP), the term pollutant or contaminant means any pollutant or contaminant that may present an imminent and substantial danger to public health or welfare.

15-3.13 Release. As defined by Section 101(22) of CERCLA, release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any HS or pollutant or contaminant), but excludes: any release that results in exposure to persons solely within a workplace, with respect to a claim that such persons may assert against the employer of such persons; emissions

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from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine; release of source, byproduct, or special nuclear material from a nuclear incident or any processing site, under conditions specified in CERCLA; and the normal application of fertilizer. For purposes of the NCP, release also means threat of release.

15-3.14 Reportable Quantity (RQ). The quantity of an HS that must be reported if released. CERCLA Section 102 requires EPA to establish and revise a list of HS and their associated reportable quantities; this list is contained in reference (d).

15-3.15 Restoration Advisory Board (RAB). A group established for the purpose of allowing individuals the opportunity to give advice to an installation on the installation's restoration program and to act as a focal point for the exchange of information between an installation and the local community. The RAB is intended to enhance public involvement by bringing community members who reflect the diverse interests within the local community into the resolution process, enabling the early and continued two-way flow of information, concerns, values, and needs between the community and the installation. RABs will not make decisions on environmental restoration activities, but will provide information, suggestions, and community input to be used by the Navy in making decisions on actions and proposed actions respecting releases or threatened releases. RABs will not take the place of community outreach and participation activities required by law, regulation, or policy. All community relations requirements must still be met.

15-3.16 Site. A location on an installation's property where a HS has been deposited, stored, disposed, or placed, or has otherwise come to be located. Such areas may include multiple sources and may include the area between sources. This should not be confused with EPA listing an entire installation on the NPL. An NPL installation will generally have several discrete sites.

15-3.17 Solid Waste Management Unit (SWMU). For the purposes of RCRA corrective action, any unit in which wastes have been placed at any time, regardless of whether the unit was designed to accept solid waste or HW. Such units could include old landfills, wastewater treatment tanks and leaking process or waste collection sewers.

15-3.18 Stakeholder. Interested parties including individual residents that live near the installation; representatives of citizen, environmental, and public interest groups whose members live in the vicinity of the installation; workers involved or affected by installation operations; and elected and appointed local government officials. The term stakeholder is used in the context of RABs.

15-3.19 Technical Review Committee (TRC). SARA (211) requires a TRC be established to facilitate review and comment on technical aspects of response actions and proposed actions with respect to releases or threatened releases at Navy installations. Members of the TRC include the Navy, EPA officials, appropriate State and local authorities, Federal and State natural resources trustees, and representatives of the community. Navy policy is to convert all TRCs to RABs.

15-3.20 Uncontrolled Hazardous Waste Site. An area identified as an uncontrolled HW site by a governmental body, whether Federal, State, local or other, where an accumulation of HS creates a threat to the health and safety of individuals or the environment or both. Examples of such sites include, but are not limited to, surface impoundments, landfills, dumps, and tank or drum farms. Normal operations at treat-

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ment, storage and disposal (TSD) sites are not covered by this definition.

15-4 Requirements

15-4.1 CERCLA Process. The following general procedures are set forth under the NCP for initiating and carrying out the remedial process under the IR Program. Requirements for these procedures are discussed in the following sections (additional details can be found in the IR Manual):

a. Site discovery and notification

b. Preliminary Assessment (PA)

c. Site Inspection (SI)

d. Hazard Ranking System (HRS)

e. Remedial Investigation/Feasibility Study (RI/FS)

f. Record of Decision (ROD)

g. Remedial Design/Remedial Action (RD/RA)

h. Operation and maintenance (O&M)

i. Long-term monitoring (LTM)

j. Site Closeout (NFRAP or De-listing).

EPA and appropriate State and local officials and the public are given the opportunity to review and comment on assessments/studies and proposals for removal/remedial actions. In addition, Federal Facility Agreements (FFAs) are negotiated with State and Federal regulators early in the study process for those installations on the NPL (see 15-5.16). A flow chart outlining the IR Program is provided as Figure 15.1.

15-4.2 Site Discovery and Notification. Site discovery and notification is the first step in addressing uncontrolled or abandoned HS sites at Navy installations.

15-4.2.1 Knowledge of a Release. Any release or threatened release of a hazardous substance must be reported to EPA, the State, and relevant local authorities. Releases, or threatened releases, must also be reported to the chain of command using the reporting format contained in Appendix I. In addition, if the release exceeds RQ as defined under CERCLA, the National Response Center (NRC) must immediately be notified at 1-800-424-8802 or 202-267-2675. If notification of the NRC is not practical, the regional EPA-designated OSC or the Coast Guard should be notified.

15-4.2.2 Federal Agency Hazardous Waste Compliance Docket. Per CERCLA requirements, EPA maintains a Federal Agency Hazardous Waste Compliance Docket that contains information regarding Federal facilities that manage HS or from which HS may be or have been released. A PA must be accomplished for every site on the docket. A governor may petition EPA to add a facility to the docket. CERCLA also authorizes the public to directly petition an installation to conduct a PA if the person or organization believes that a HS release or threat of a release exists. The docket lists all installations that have submitted IR information to EPA.

15-4.3 Removal Actions. Removal actions are near-term actions taken to address releases of HS that require expedited response and are often the first response to a release or threatened release. Removals can be undertaken at any time during the remedial process.

CERCLA Section 104 and EO 12580 grant the Navy the authority to carry out removal actions when the release is on, or the sole source of the

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CERCLA PROCESS

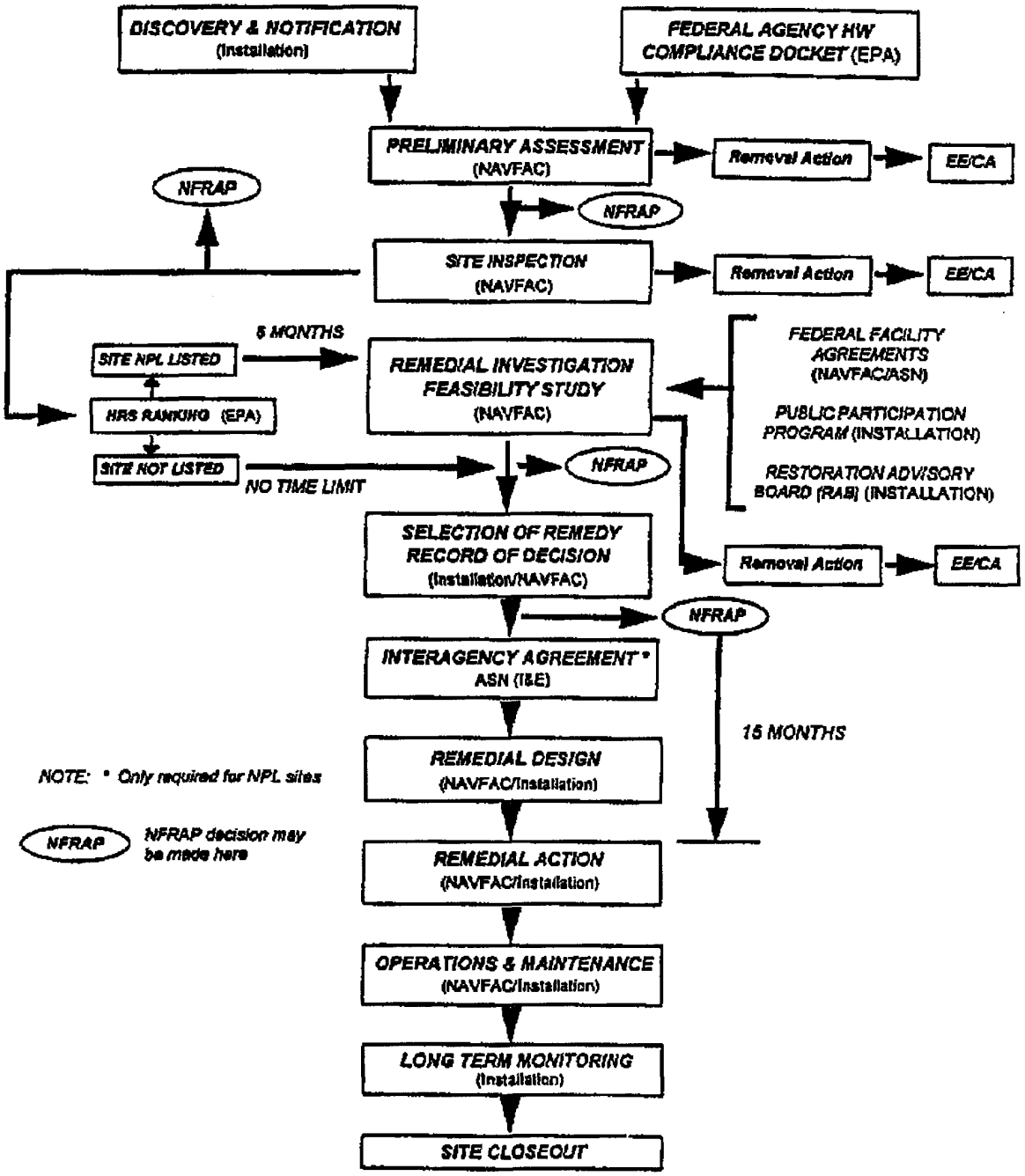

Figure 15-1

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release is from, a Navy installation. However, notice of removal actions must be given to EPA and/or the State under SARA Section 211. Guidance for determining the appropriateness of, and procedures for, removal actions can be found in the Navy/Marine Corps IR Manual.

15-4.4 Preliminary Assessment (PA). The NCP defines a PA as a "..review of existing information and an off-site reconnaissance, if appropriate, to determine if a release may require additional investigation or action, a PA may include an on-site reconnaissance if appropriate. The main purpose of the PA is to collect information for use in assessing the existence of HS at a site and determining the potential for HS migration to determine if a release may require additional investigation or action. This assessment is to include a review of existing information on the pathways of exposure, exposure targets, and the source and nature of the release.

A PA is required under the following circumstances:

a. After site discovery and notification

b. Within 12 months after listing on the Federal Agency HW Compliance Docket

c. Within 12 months of receiving a petition, unless the assessment is deemed inappropriate.

15-4.5 Site Inspection (SI). The NCP defines a SI as "...an on-site inspection to determine whether there is a release or potential release and the nature of the associated threats. A SI is required if the PA reveals that additional investigation is needed. The NCP states that a SI's purpose "is to augment the data collected in the PA and to generate, if necessary, sampling and other field data to determine if further action or investigation is appropriate." Specifically, a SI should serve the following functions:

a. Eliminate from further consideration those releases that pose no significant threat to public health or the environment

b. Determine the potential need for removal actions at the installation or site under consideration

c. Collect data to evaluate and characterize the release for the effective and rapid initiation of RI/FS.

15-4.6 Hazard Ranking System (HRS). The HRS is a method used by EPA to evaluate the relative potential of HS releases to cause health or safety problems, or ecological or environmental damage. With this method, information from the PA/SI is used by EPA for scoring Navy sites. Sites receiving scores above 28.5 (and having the highest potential for affecting human health, welfare, and the environment) are put on the NPL.

15-4.7 Remedial Investigation/Feasibility Study (RI/FS). The RI/FS is an extensive technical study conducted to determine the nature and extent of the threat presented by a release and, where appropriate, to evaluate proposed remedies. Contaminants and their migration pathways are defined, potential risks to public health and the environment are assessed, and a quantitative risk assessment is carried out.

The RI serves as the mechanism for collecting data necessary to characterize the site and the wastes present; to evaluate the performance and cost of possible treatment technologies; and to support the evaluation, selection, and design of selected remedies. The FS serves as the mechanism for the development, screening, and detailed evaluation of potential remedial alternatives. The purpose is to evaluate the threat posed by the HS site to public health and the environment, especially sensitive habitats and critical habitats of species protected under the

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Endangered Species Act, to develop cleanup performance goals, and to compare the health and environmental risks of the remedial alternatives. RI/FSs are required at all CERCLA sites, both NPL and non-NPL. For NPL sites, CERCLA requires that an RI/FS be commenced within 6 months of the site being listed on the NPL.

15-4.8 Administrative Record. The NCP requires that an administrative record, or information repository, be established for all CERCLA sites (reference (c)). The administrative record must be established and made available to the public at the start of the remedial investigation for remedial actions, and at the time of engineering evaluation/cost analysis for removal actions.

15-4.9 Public Participation. Prior to adoption of any plan for remedial action, CERCLA Section 117 requires the Navy to:

a. Publish a notice and brief analysis of the proposed plan and make the plan available to the public

b. Provide a reasonable opportunity (not less than 30 calendar days) for submission of comments and opportunity for a public meeting

c. Publish notice of the final remedial action plan adopted and make the plan available to the public prior to commencement of any remedial action.

The function of the public participation activities is to help ensure that the community will be informed of planned and ongoing activities, be given the opportunity to comment on and provide input to technical decisions, and to allow environmental concerns to be addressed as early as possible during the remedial process. Navy policy requires opportunities for public participation to begin at initiation of the IR process and continue through cleanup.

15-4.10 Technical Review Committee (TRC). SARA Section 211 requires that whenever possible and practical, a TRC will be established for the purpose of reviewing and commenting on actions and proposed actions respecting releases or threatened releases at the installation. Navy policy is to convert all TRCs to RABs including those at bases subject to closure under base closure law.

15-4.11 Protection of Health and Safety. Response actions under the NCP must comply with the provisions for the protection of the health and safety of workers engaged in HW operations found in reference (a). These provisions include requirements for: developing a site health and safety plan; establishing site access control; enforcing standard operating safety procedures; implementing medical surveillance procedures; providing for environmental and personnel monitoring; providing appropriate personal protective equipment (PPE); and establishing emergency procedures. Detailed requirements for the protection of worker health and safety and proper personnel training are found in the IR Manual. Training information is summarized in Figure 3.1.

15-4.12 Public Health Assessment. The Agency for Toxic Substances and Disease Registry (ATSDR) must perform a public health assessment for each facility listed or proposed for inclusion on the NPL. A public health assessment is the evaluation of data and information on the release of hazardous substances into the environment in order to assess any current or future impact on public health, develop health advisories or other recommendations, and identify studies or actions needed to evaluate and mitigate or prevent human health effects. ATSDR will perform the assessment using available information from IR studies and from site

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visits. To the maximum extent possible, ATSDR will attempt to complete a public health assessment before the completion of the RI/FS.

15-4.13 Record of Decision (ROD). The purpose of a ROD is to document the selection of a site-specific remedy. To be consistent with the NCP, the selected remedy must be protective of human health and the environment, attain all State and Federal applicable or relevant and appropriate requirements for that site, be cost-effective, and utilize permanent treatment technologies or resource recovery technologies to the maximum extent practicable.

As required under CERCLA Section 117(b), notice of the final ROD must be published and the ROD must be made available to the public in the administrative record before adoption of any plan for remedial action. The ROD must document any significant changes from the proposed plan and respond to all comments, written and oral, that were received during the comment period. The ROD is signed after closure of the public comment period and once all significant comments or issues are addressed. For non-NPL sites, a decision document is signed. All procedures for the ROD are followed at non-NPL sites, but EPA's signature is not required.

15-4.14 Interagency Agreement (IAG). As required by CERCLA 120(e), Federal agencies must enter into an IAG with EPA for the expeditious completion of all necessary remedial actions within 180 days after competition of each RI/FS for an NPL site. To expedite the cleanup process, a FFA is signed with EPA, and the State where possible, as soon as possible after an installation is proposed for NPL listing. An FFA becomes an IAG for an operable unit or site cleanup at an installation once the ROD is signed and new schedules are negotiated for the actual Remedial Action (RA). FFAs are not required by law; however, DoD and Navy policy requires them unless they are not advantageous to the Navy.

15-4.15 Other Cleanup Agreements. There are also non-NPL cleanup agreements with States, the RCRA corrective action permit and 3008(h) order process, UST cleanup agreements, the application of RCRA corrective action to petroleum releases and CERCLA FFA implications, and RCRA/ CERCLA integration including RCRA closure and corrective action at NPL and non-NPL sites.

15-4.16 Remedial Design/Remedial Action (RD/RA). After the ROD has been completed, the RD/RA for the selected remedy will be initiated. For NPL sites, Federal activities will commence substantial continuous physical on-site remedial action not later than 15 months after completion of the RI/FS. The RD converts the conceptual design for the selected remedy into a final design to be implemented. The RA commences after completion of the RD with the award of a contract to construct or implement the selected alternative.

15-4.17 Operations and Maintenance (O&M). CERCLA requires long term O&M following completion of the RA if HS remain at the site. Plans for O&M, including LTM, are identified in the FS, ROD, or decision document. Long term O&M of the remedial alternative begins with initiation of the RA and continues until the remedy is no longer needed.

15-4.18 Long Term Monitoring (LTM). Depending on the selection of the remedial alternative, LTM may be required to demonstrate that the remedy has achieved its goal. LTM may also be selected as the RA, or in place of a RA. Long term monitoring records are reviewed every 5 years.

15-4.19 Site Closeout. A site closeout should be conducted when no further response actions

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under the IR Program are considered appropriate for the site and when site cleanup confirms that no significant threat to public health or the environment exists. Wherever possible, EPA and State concurrence should be sought.

15-4.19.1 **NPL Site Closeout.** Per NCP requirements (reference (c) part 425(e)), releases may be deleted from, or re-categorized on, the NPL provided that all appropriate response actions have been implemented, no further response action is appropriate, or the RI has shown that the release poses no significant threat to public health or the environment. The EPA, in consultation with the State, will determine whether any of these requirements has been met and if so, will prepare a notice of intent to delete. EPA will obtain State concurrence with the deletion notice prior to making the notice available to the public. The final deletion package will also be made available to the public and will contain the response to public comments received. For purposes of de-listing a Federal NPL installation, all individual sites on the installation must be closed out.

15-4.19.2 **Non-NPL Site Closeout.** For non-NPL sites, EPA and the State must be notified that appropriate response actions have been completed and no further response action is appropriate. The site(s) will be designated as NFRAP, with supporting documentation being placed in the information repository, and the public will be notified of these actions.

15-4.20 Real Property Transactions and Management. Reference (f) requires, per CERCLA Section 120(h)(1), that all Federal agencies entering into a contract for the sale or other transfer of real property include a notice that identifies whether HS were stored on the property for 1 year or more, or were released or disposed of on the property. This notice must identify the type and quantity of such HS and the time at which such storage, release, or disposal took place.

CERFA expanded CERCLA Section 120(h) to require that, before termination of Federal activities on any real property owned by the government and subject to base closure, the head of the agency with jurisdiction over the property must identify the real property on which no HS and no petroleum products or their derivatives were stored for 1 year or more, known to have been released, or disposed of. The identification of uncontaminated property will be based on an investigation of the real property. Concurrence with the identification must be obtained from EPA for NPL sites. For non-NPL sites, the State must be provided 60 days for review and comment. If no comments are received, concurrence is deemed to have occurred.

For bases subject to closure or realignment under a base closure law, the CERFA identification must be made, and concurrence must be obtained, within either: 18 months of the CERFA enactment (October 19, 1992); 18 months of the date by which a joint resolution disapproving the closure or realignment must be enacted and such a joint resolution has not been enacted; or 18 months of the date on which the real property is selected for closure or realignment.

15-4.21 Retention of Records. CERCLA Section 103(d)(2) requires that any person responsible for providing notification of known, suspected, or likely releases should also retain records of the facility and the HS release for 50 years. The records include information on the location, title, and condition of the facility and the identity, characteristics, quantity, origin, or condition (including containerization and previous treatment) of any HS contained or deposited on the facility. It is unlawful to destroy, mutilate, conceal, or falsify such records. It is possible, under some circumstances, to obtain a

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waiver from these requirements by applying to EPA.

15-4.22 RCRA Corrective Action. Installations seeking or renewing a permit for a TSD are required by RCRA Section 3004(u) to take corrective action for past releases of HW or constituents from any SWMU at the facility. Permits issued by EPA or a State with RCRA authority will contain schedules of compliance for such correction (where such action cannot be completed before the permit is issued).

Additional RCRA corrective action requirements include:

a. Per Section 3004(v), corrective action must be taken for releases of HW that have migrated beyond the facility's border

b. Per Section 3008(h), EPA may issue an order requiring corrective action to address releases of HW (constituents omitted), whether or not from a SWMU, at facilities authorized to operate under interim status.

DERA funds can be used for corrective action as described above for past releases of HW at TSDs if these are the same types of releases covered by the IR program.

15-5 Navy Policy

15-5.1 General. All actions carried out under the Navy IR Program shall be accomplished in compliance with all applicable requirements of CERCLA/SARA and all terminology utilized by the Navy IR Program shall be consistent with that used in CERCLA/SARA and RCRA/HSWA. All IR response actions shall follow EPA guidance in determining the reasonable interpretation and application of the regulations and shall be accomplished per the NCP. The Navy shall not adopt any guidelines or rules that are inconsistent with EPA's guidelines and rules. The Navy strives to clean up sites with higher risk before those with lower risk. This concept should continually be pushed with the regulators and the public, especially when funding is constrained. Funding is provided by the Congress through DERA. The Navy shall maintain an open and continuous dialogue with regulatory agencies and the public on all IR activities. The Defense/State Memorandum of Agreement (DSMOA) process shall be used to provide funds to State regulatory agencies for oversight costs.

15-5.2 Site Discovery and Notification. If a release has been discovered, and that release has not previously been reported, it shall then be reported immediately to the appropriate agencies. If a PA identifies a potential disposal site exists, a SI shall be conducted to determine if a release has occurred. If a release has occurred, the appropriate agencies shall be immediately notified. The message format for reporting a HS release is provided in Appendix I.

15-5.3 Removal Actions. At any site (irrespective of whether the site is included on the NPL) where the Navy or EPA determines that there is a threat to human health or the environment, the Navy shall use any appropriate means to abate, minimize, stabilize, mitigate, or eliminate the release or threat of release. Alternatives that attain or exceed applicable or relevant and appropriate Federal public health and environmental requirements, Federal criteria, advisories and guidance, and State standards shall be considered in selecting a removal action. The cognizant Naval Facilities Engineering Command (NAVFACENGCOM) activity, in coordination with the installation, shall prepare an analysis of the removal alternatives for the site, make the analysis available to the public, and provide at least a 30-day comment period. A decision document developed in coordination with the installation shall also be prepared to substantiate the need for the removal action,

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identify the selected action, explain the rationale for the removal, and respond to significant public comments. Removal action shall then begin. If the Navy determines that the removal action shall not fully address the threat or potential threat posed by the release, the Navy shall ensure an orderly transition from removal to remedial response action. The funding and time constraints in CERCLA that apply to Superfund expenditures for removal actions do not specifically apply to Navy removal actions but should be used as guidelines.

15-5.4 Emergency Response. Under CERCLA Section 104, EO 12580 and the NCP, the Navy has the authority to respond to "emergency" situations (i.e., those circumstances that may immediately endanger human life, health or the environment) where the release or threatened release is on, or the sole source of the release is from, a Navy facility. If an IR site appears to be causing an emergency situation, the Navy is responsible for taking appropriate action to protect the public and the environment from the threat. The installation, in consultation with the cognizant NAVFACENGCOM activity, shall be responsible for responding to emergency situations using DERA funds.

15-5.5 PA. All PAs shall be conducted by the cognizant NAVFACENGCOM activity or the Naval Facilities Engineering Service Center (NFESC) as soon as possible after site discovery or listing on the Federal Agency HW Compliance Docket. Upon completion, the PA shall be provided to the installation for review and forwarding to the cognizant EPA region and the State.

15-5.6 SI. The cognizant NAVFACENGCOM activity conducts SIs at sites that are recommended for further investigation at the end of the PA. The SI shall be accomplished as expeditiously as possible.

15-5.7 HRS. Following completion of a PA/SI, the cognizant NAVFACENGCOM activity shall prepare a package that includes available information necessary for HRS scoring, and the installation shall forward the package to the EPA.

15-5.8 RI/FS. COMNAVFACENGCOM or its designee is responsible for conducting the RI/FS on behalf of the installation. The RI/FS shall be accomplished as expeditiously as possible.

15-5.9 No Further Response Action Planned (NFRAP). The Navy should not expend resources on sites that pose little or no threat to humans or the environment. A no further action decision can be made at several points within the remedial process, but must be based on a defensible and properly documented "assessment of risk to human health and the environment." The Navy may apply this procedure at both NPL and non-NPL installations to describe those locations where it has been determined that no further action is required, based upon appropriate investigation. NFRAP decision documents shall be prepared by COMNAVFACENGCOM or its designee and signed by the installation commander. Upon signature, the installation shall forward the NFRAP decision documentation to appropriate regulatory agencies for information and/or concurrence and ensure that the public receives notification via RABs, public meetings or other appropriate methods. Remedial project managers shall be alert to document opportunities for a NFRAP decision.

15-5.10 Administrative Record. The administrative record shall be initiated as soon as the SI shows that the program shall move into the RI/FS phase. The cognizant NAVFACENGCOM activity shall establish and maintain the administrative record and send copies to the installation, State, and EPA as appropriate. Installations shall ensure that a

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copy of the administrative record is available in an information repository. The repository shall be available to the public at or near the site and notice of the availability is part of the record. This record is the basis for actions taken by the Navy and any future legal action concerning the site.

15-5.11 Public Participation. Navy public participation requirements, described in detail in the Navy/Marine Corps IR Manual, are more comprehensive than the NCP. Installations, with assistance from the cognizant NAVFACENGCOM activity, are responsible for implementing proactive public information programs that shall include formal Community Relations Plans (CRPs) for all IR sites, whether or not the installations are on the NPL. In addition, the installation shall appoint a contact or spokesperson for community relations activities who shall be responsible for receiving all inquiries and releasing information concerning the installation's restoration program.

15-5.12 TRC. All installations that currently have TRCs shall convert them to RABs. The RABs shall meet the statutory requirements for the TRCs as required in 10 USC 2705 while providing expanded opportunities for community participation in the environmental restoration process. The conversion of TRCs to RABs shall be accomplished by:

a. Expanding existing TRCs to include additional community representatives.

b. Establishing co-chairs, one from the community members of the RAB and one from the Navy.

c. Opening all meetings to the public.

15-5.13 Restoration Advisory Board (RAB). DON policy is to convert all TRCs to RABs. By increasing the diversity and number of community representatives, establishing a Community Co-Chair, and opening the meetings to the public, the RABs shall ensure that all stakeholders have an increased opportunity to actively participate in the timely review of installation restoration documents and plans and to present various points of view for careful consideration. At base closure installations, RABs should facilitate accelerated cleanup and property transfer. RABs shall not make decisions on environmental restoration activities as a group, but shall provide information, suggestions, and community input for use by the Navy in making decisions on actions and proposed actions concerning releases or threatened releases. It is not intended that Federal Advisory Committee Act (FACA) requirements shall apply. RABs shall not take the place of community outreach and participation activities required by law, regulation or policy. All community relations requirements must still be met. The installation shall be responsible for implementing the RAB. DERA funding should be used for this effort.

15-5.13.1 RABs at Non-TRC Installations. Installations that do not currently have TRCs shall establish RABs under the following conditions:

a. Determination that a release has been confirmed upon completion of the PA and SI.

b. Request from a local government that a RAB be formed.

c. Presentation of a petition signed by 50 local residents requesting that a RAB be formed.

d. Determination by the installation that a RAB is needed.

15-5.13.2 Membership of the RAB. The RAB shall include at least one representative of the installation and cognizant NAVFACENGCOM activity, EPA, and appropriate State and

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local authorities and members of the local community. Whenever appropriate, natural resources trustees and installation natural resources managers should be invited to have representatives on the RAB. EPA and the State should be encouraged to provide the RAB with representatives who have the authority to make decisions concerning the implementation of specific proposals. Community members should represent diverse interests and reflect a broad cross section of the community. At Base Realignment and Closure (BRAC) installations, the Transition Coordinator and BRAC Cleanup Team members from EPA and the State should be encouraged to attend.

The size of each RAB should be determined on a case by case basis and shall likely vary from installation to installation. The current TRC should determine how many community members are needed (from 3-12). The RAB should be no larger than is necessary to get the job done but no smaller than is necessary to adequately reflect the diversity of community interests regarding base cleanup and conversion.

15-5.13.3 Selecting Community Members. It is the Navy's responsibility to ensure that a diverse group of individuals, representing a broad cross section of the community including established groups and interested individuals, be selected. In all cases it is imperative to be upfront with the public. The selection procedure and number of new members to be added to the RAB should be announced along with the responsibilities of RAB membership. Potential new members may be identified by:

a. Asking members of the current TRC to make recommendations for potential new members.

b. Convening a selection panel representative of the diversity of the community to nominate community members.

c. Re-contacting citizens interviewed during the development of the CRP and asking for recommendations.

d. Soliciting nominations through announcements in newspapers (if this method is used to recruit members, it is important to describe the process that shall be used in selection and to advertise the number of positions to be filled).

Once a slate of candidates is created, the commanding officer (CO) accepts the slate as a whole. If the CO rejects the slate, the process starts again. New members should be announced upon their selection. Their names and phone numbers should be made available to the community to assure access and communication.

15-5.13.4 Membership Requirements. RAB members shall be expected to:

a. Serve a 2-year term established by the RAB.

b. Communicate with local community members and interest groups concerned with specific base issues.

c. Comment on documents available for review.

d. Attend all RAB meetings or send an alternate.

e. Reside in the vicinity of the installation.

f. If unable to continue to fully participate, submit their resignation in writing to either of the RAB co-chairs (if the member is representing a group or organization, that group or organization may nominate a new member).

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15-5.13.5 Restoration Advisory Board Meetings. All RAB meetings shall be open to the public. The meeting place shall be large enough to accommodate everyone interested in attending and have access for the handicapped. Time and place shall be selected to permit public attendance. Meetings shall be announced in advance through mailed announcements and local newspapers. In addition, minutes shall be published in a local newspaper and distributed to interested parties on the mailing list.

Procedures for the conduct of the RAB meetings shall be established by the RAB members. The public may participate in RAB meetings in one or more of the following ways, depending on the decision made by the RAB:

a. The public can be allowed to ask questions or make comments at specific times as outlined in the agenda.

b. Time can be allotted at the end of each meeting for public participation.

c. The RAB meeting can be followed by a public meeting.

d. The public can comment and ask questions in writing.

RABs shall make decisions concerning comments at the next RAB meeting as part of the official agenda.

15-5.13.6 RAB Sub-committees. Sub-committees may be established as needed to investigate technical issues in depth, prepare special reports, produce bulletins, summarize activities, or accomplish other tasks that are specialized or require too much time for the entire RAB.

15-5.14 Health and Safety. The RPM and installation restoration coordinator shall be responsible for ensuring that requirements for protecting site worker health and safety are being enforced.

15-5.15 Public Health Assessment. The Navy Environmental Health Center (NAVENVIRHLTHCEN) shall coordinate with ATSDR concerning the public health assessments. NAVENVIRHLTHCEN shall ensure that ATSDR is aware of new NPL listings and coordinate any ATSDR visits to installations with the installation and cognizant NAVFACENGCOM activity. NAVENVIRHLTHCEN shall review public health assessments being done by ATSDR.

15-5.16 Federal Facility Agreements (FFAs) under CERCLA Section 120. The Navy shall enter into FFAs at its NPL sites as early as possible after the requirement for a RI/FS has been identified. These agreements have high priority and are intended to establish roles and responsibilities and to improve communications between all parties by allowing EPA and the State to review all work in support of remedy selection. FFAs also establish the procedural framework and establish schedules for the parties involved. FFAs at NPL sites shall outline the working relationship between the States, EPA, and the Navy. NAVFACENGCOM is responsible for negotiating all FFAs. In developing the Navy's negotiating position, NAVFACENGCOM shall seek the input of the installation, the cognizant major claimant(s), the Regional Environmental Coordinator (REC), and CNO (N45). After coordination, FFAs shall be forwarded with appropriate endorsements via the Chain of Command and CNO (N45) to Assistant Secretary of the Navy (Installations and Environment) (ASN(I&E)) for signature.

15-5.17 ROD/Decision Document. The cognizant NAVFACENGCOM activity shall prepare a ROD/decision document at the conclusion of a RI/FS and provide the ROD/decision document and a recommendation of action to the installa-

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tion CO with a copy to the major claimants. The installation CO shall carefully review the proposed ROD/decision document and administrative record. If the CO concurs with the proposed ROD/decision document, then he/she shall sign it. If the CO disagrees or has questions on the ROD, he/she shall present the issues to the cognizant NAVFACENGCOM activity and the major claimant for discussion and resolution.

For NPL sites, the ROD is forwarded to the EPA regional office for concurrence. Although neither a ROD nor an IAG is required under CERCLA at non-NPL sites, State remediation laws may contain requirements for decision documentation. Where such requirements apply, the cognizant NAVFACENGCOM activity shall write a decision document for submittal by the installation that satisfies State law. If the State remediation law contains no specific requirements for decision documentation, the cognizant NAVFACENGCOM activity shall write a decision document that contains the elements of a ROD. The installation shall forward the decision document to EPA and the State.

15-5.18 IAGs. At the completion of an RI/FS at a NPL site, the law requires that an IAG be signed. The previously negotiated FFA shall become an IAG when the statutory requirements are incorporated after the ROD.

15-5.19 RD/RA. Remedial designs and remedial actions shall be completed as expeditiously as possible, whether at NPL or non-NPL sites.

The RPM shall oversee coordination of the RD/RA with the installation, EPA, the State, and local officials, maintain the administrative record, participate in community relations, and ensure overall quality assurance/quality control. The Navy Resident Officer in Charge of Construction (ROICC) shall manage construction for the RA and shall ensure that the RA meets all specifications and is constructed in a manner that protects human health, welfare, and the environment.

15-5.20 O&M. O&M is the responsibility of NAVFACENGCOM (using DERA funding) until the remedial objective has been achieved; thereafter, it is the responsibility of the installation. If HS, pollutants, or contaminants remain at a site after the RA, the installation CO, with technical assistance from the cognizant NAVFACENGCOM activity, shall review monitoring records to ensure that human health and the environment are being protected. O&M for equipment used in the RA shall be ongoing at the site. Operation, maintenance, and monitoring activities are eligible for DERA funding for a period of ten years after completion of the remedial action, after which the installation Operation and Maintenance, Navy (O&MN) funds shall be used. In cases where the remedy is divided into OUs, the 10-year limit applies to each individual OU.

15-5.21 LTM. Navy installations shall undertake LTM when appropriate per applicable law. If an RI/FS shows detectable contamination that is below the level that requires a remedial action, the Navy may be required to continue monitoring in order to detect any increases in contamination level or migration of contaminants so as to ensure the site or the OU remains protective of human health and the environment.

DERA funds shall pay for the start-up of a monitoring program and the first 10 years of operation. After that, the installation must pay the costs associated with LTM. Installations shall budget for LTM just as they budget for other operations.

15-5.22 Site Closeout. The following actions shall be taken when it is determined that no further response actions are appropriate for the site.

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15-5.22.1 NPL Sites. COMNAVFACENGCOM or its designee shall notify the EPA regional office that appropriate response actions have been completed and request that the site be deleted from the NPL. COMNAVFACENGCOM or its designee and the installation shall support EPA and the State in their determination of whether or not to delete the site by providing information and public notification as appropriate.

15-5.22.2 Non-NPL Sites. The installation shall notify the EPA regional office and the State that appropriate response actions have been completed. The cognizant NAVFACENGCOM activity shall prepare required documentation and designate the site(s) as NFRAP. The installation shall ensure public notification by placing the documentation supporting NFRAP in the information repository and publishing notification of its availability.

15-5.23 RCRA Corrective Actions. Corrective action shall be completed as expeditiously as possible.

15-5.24 Construction on Contaminated Project Sites. All efforts shall be made to ensure that Navy projects are not constructed on contaminated sites. However, there may be times when the project is being planned or is underway and contamination is discovered. In such instances, the following applies:

a. If contamination is discovered during the planning stage, the site can be investigated and cleaned up following IR procedures. In most cases, this shall take several years and the site may not be available for the subject project. The site investigation/clean up shall compete with other IR sites on a worst-first basis.

b. If contamination is discovered during construction, the site investigation/cleanup shall compete with other IR sites on a worst-first basis. If IR funding is not available, project funds shall be used to investigate/clean up the site. If IR or project funding is not available and it is possible to re-site the project, then IR funds may be used to investigate and clean up the site at a later date.

15-5.25 Off-Station Sites

15-5.25.1 Navy as Potentially Responsible Party (PRP). Historically, the Navy has contracted with private companies to transport and dispose of HW generated at its installations. Many of the disposal sites selected by contractors are themselves threatening/contaminating the environment and need to be cleaned up. Upon receipt of formal notice from the EPA, State or local authorities that a Navy installation is involved in a site as a PRP, the installation shall notify, by message, its chain of command, the REC, COMNAVFACENGCOM, cognizant NAVFACENGCOM activity, Judge Advocate General, Office of Assistant General Council (Installation and Enviconment) (OAGC(I&E)), Office of General Council (Litigation Office) (OGC (Litigation Office)) and CNO (N45). The message shall describe the salient points of the notice. Simultaneously, a copy of the notice and other appropriate documents shall be mailed to the same addressees. Cognizant NAVFACENGCOM activities shall take the lead role in negotiating with EPA, the U.S. Attorney's Office, and the PRP Steering Committee. Cognizant NAVFACENGCOM activity personnel shall cooperate with the PRP Steering Committee and provide information that is requested regarding the Navy's HW that has been sent to that site. NAVFACENGCOM shall report semiannually to CNO on the status of Navy involvement in off-station CERCLA sites. The cognizant NAVFACENGCOM activity shall keep the REC apprised of site status.

15-5.25.2 Formerly Used Defense Sites (FUDS). FUDS differ from PRP sites in that

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FUDS are not identified as part of the EPA Superfund and are located on property that has been formerly owned or operated by DoD. The Army Corps of Engineers is responsible for the FUDS Program. The Navy's responsibility for FUDS sites that were formerly Navy sites is informational only. Should local interest arise, questions regarding the status of FUDS sites should be passed to appropriate Corps of Engineers officials. In special circumstances, authority can be obtained from the Corps to address FUDS located on property that had been owned or operated by the Navy.

15-5.26 Real Property Transactions and Management. The cognizant NAVFACENGCOM activity shall be responsible for ensuring that the IR Program is considered prior to engaging in real property transactions and as part of all land management decisions.

As Navy installations are closed and realigned, IR Program efforts must continue. IR Program requirements shall be identified and completed per CERCLA, SARA, CERFA and the NCP. Congress has established guidelines for funding the necessary investigations and cleanups and established a specific fund account for IR Program work at BRAC installations.

For properties being obtained by the Navy, the condition of the property should be evaluated from a perspective of IR Program responsibilities prior to completing the property acquisition.

15-5.27 National Environmental Policy Act (NEPA). IR Program actions that follow the NCP and fulfill public participation requirements are deemed to have complied with NEPA.

15-5.28 Government-Owned/Contractor-Operated (GOCO) Plants. The Navy's liability and responsibility for cleanup of sites at GOCO facilities is based upon its status as "owner" of the facility. Past and present contractors share this liability since they are "operators" or "generators" at these facilities. Absent special contractual provisions to the contrary, Navy policy shall be to require current GOCO contractors to pay for any and all cleanup costs associated with their operation of Navy facilities.

Navy actions to fulfill its CERCLA responsibilities shall be consistent with its contractual requirements with the GOCO contractor. Failure to coordinate may result in a claim by the operating contractor under a Navy contract or loss of potential claims by the Navy against the operator.

The following policy shall be followed when implementing the IR program at GOCOs:

a. A PA/SI shall be done by NAVFACENGCOM at Navy GOCOs. DERA funds shall be used for the PA/SI. NAVFACENGCOM shall coordinate with the corresponding Echelon 2 Command prior to starting the study.

b. Once the PA/SI has been completed, the results shall be provided to the Echelon 2 Command for action. If the PA/SI recommends additional follow-up work, the Echelon 2 Command shall immediately initiate discussions with the contractor pertaining to contractor responsibility for and participation in any cleanup efforts. Since the contractor may be liable for the cleanup, he/she shall be offered the opportunity to conduct any follow-up studies. To ensure that any work done by the contractor is consistent with the requirements of CERCLA, the NCP and the IR Program, COMNAVFACENGCOM or its designee shall serve as the Echelon 2 Command's technical representative and shall review and approve all phases of the work, including submittals.

c. If the contractor declines to perform the follow-up studies, the Echelon 2 Command shall request COMNAVFACENGCOM to

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conduct the work under the IR Program. DERA funds shall be used and all costs associated with the follow-up studies shall be identified for future cost recovery actions if such action is appropriate.

d. Similar scenarios shall be followed as described above for any RD/RAs, including removal actions and interim RAs. The Navy shall pursue cost recovery actions against the contractor where appropriate.

e. All actions (i.e., studies and cleanups) done at GOCOs on Navy property shall be consistent with CERCLA and the NCP. Administrative records and CRPs shall be done at all the GOCOs. RABs are recommended but not mandatory unless DERA funding is being used to conduct the studies and cleanup. If a GOCO is placed on the NPL, all timetables associated with CERCLA Section 120 apply and the Navy shall ensure that these are met. Negotiations concerning necessary FFAs shall be handled by COMNAVFACENGCOM.

15-5.29 State Laws. Navy policy is to comply with all State laws which are consistent with the CERCLA, SARA and the NCP. For States with a mini-superfund law, it may be advantageous to negotiate a Federal Facility/State Remediation Agreement (FFSRA) for non-NPL sites which spells out the responsibilities of each party to the cleanup. When cleaning up sites under the RCRA corrective action program, laws and regulations for States which have received primacy will be followed by the Navy.

15-5.30 Coordination with Other Environmental Regulations. Although CERCLA Section 121(e) exempts IR Program actions occurring entirely on-site that are consistent with CERCLA Section 121 from obtaining Federal, State, or local permits, interagency coordination is often required to ensure consistency with applicable or relevant and appropriate requirements (ARARs) or other environmental laws. RPMs shall solicit early involvement of other Navy specialists including natural and cultural resources personnel to ensure that the Endangered Species Act, Section 7 consultations, National Historic Preservation Act, Section 106 consultations, and related requirements are identified and completed. These requirements may occur at any phase of an IR Program investigation including PA/SI, RI/FS, removal action, interim action, or RA.

15-5.31 Training. HW site training is required by SARA; the requirements are issued in reference (a). All Navy and contractor employees working on-site exposed to HS, health hazards or safety hazards, and the supervisors and management personnel responsible for the site, shall receive training meeting the requirements summarized below before they are permitted to engage in cleanup operations (see Figure 3.1).

a. All employees exposed to HS, health hazards, or safety hazards shall have 40 hours of off-site instruction and 3 days of field experience. Training shall be as practical as possible and include hands-on use of equipment and exercises designed to demonstrate and practice classroom instruction.

b. On-site management and supervisors of personnel engaged in HM operations shall receive training equal to the above, plus eight additional hours on managing such operations.

c. Trainers shall be trained at a level higher than, and including, the subject matter they are teaching.

d. Employees and managers shall receive 8 hours of refresher training annually.

Additional details of required and recommended IR training for staff and visitors to IR sites are provided in the Navy/Marine Corps IR Manual.

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15-6 Responsibilities

15-6.1 Echelon 2 Commands shall:

a. Ensure that subordinate installations identify IR Program requirements to NAVFACENGCOM.

b. Ensure program information and guidance is passed to their installations.

c. Ensure that subordinate installations coordinate base cleanup planning, programming, budgeting, and execution with their cognizant NAVFACENGCOM activity.

d. Ensure that subordinate installations fulfill their responsibilities under the Navy IR Program and appoint an IR coordinator.

e. Ensure that public participation and other legal requirements are met at installations with sites.

f. Ensure that installation budgets reflect resource requirements to support the IR Program.

15-6.2 COMNAVFACENGCOM shall:

a. Operate the IR Program for CNO, including the necessary overall planning, programming, budgeting, and execution.

b. Ensure the IR database is updated quarterly.

c. Ensure cognizant NAVFACENGCOM activities coordinate overall IR Program with installation commanders.

d. Provide program and technical support as directed by CNO; also provide site specific technical, progress, and budgeting information to satisfy program reporting requirements.

e. Develop and support DERA resource requests and manage funds allocated for program execution.

f. Resolve issues and problems associated with conduct of the IR Program, and raise the issues to CNO where necessary.

g. Perform IR studies and RA projects and prepare NFRAP documentation by contract, in-house effort, or combination.

h. Identify and train RPMs.

i. Consistent with coordination requirements of paragraph 15-5.16, negotiate FFAs and State remediation agreements. Forward draft final proposed FFAs and State agreements to CNO for review and submission to Office of Assistant Secretary of the Navy (Installations and Environment) (OASN(I&E)) for signature. When substantial changes to model language or policy are contemplated, these should be referred to OAGC(I&E) and CNO (N45) as early as possible after they are identified.

j. Participate in remediation planning meetings with other PRPs and agencies, forward proposed remediation agreements to CNO and OGC (Litigation Office) for review and comment, sign and administer the agreements and disseminate information to all interested parties at all stages of the process.

k. Develop and perform site-specific projects to assess and control contamination in conjunction with installations.

l. Ensure that IR work plans and ecological risk assessments are reviewed by health and safety and natural resources professionals familiar with the site.

m. Track project progress to meet schedule requirements.

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n. Coordinate, at all stages, with installation COs and regulatory agencies prior to initiating projects and through project completion.

o. Support installations in fulfilling their RAB and CRP responsibilities.

p. Prepare the ROD and/or decision document and forward to the installation CO with a recommended alternative.

q. Maintain administrative record files and distribute copies as required.

r. Prepare project plans, reports, and contract documents; coordinate review and comments; and distribute final documents to the appropriate installation and Echelon 2 Command.

s. Provide technical and financial oversight during project performance.

t. Provide IR study results to planning, real estate and natural resources personnel and work with acquisition project managers to ensure that HS site conditions are taken into account by other Navy programs and projects before irreversible decisions are made.

15-6.3 BUMED shall:

a. Provide support in the areas of ATSDR public health assessments, review of toxicological profiles, environmental risk communication workshops, review of human health risk assessments, review of site health and safety plans (HSPs), and review of ecological risk assessments.

b. Coordinate with ATSDR concerning ATSDR's legally mandated health-related activities, including public health assessments, public health consultations, health surveys and investigations, toxicology databases, emergency response and health education.

c. Assist NAVFACENGCOM and installations to prepare for public meetings and respond to community concerns regarding program health and safety.

15-6.4 Commanding officers of shore activities shall:

a. Notify Federal, State and local officials when a release is discovered.

b. Ensure that all applicable statutory and regulatory requirements including safety and health, training (for installation personnel), and natural resources are met during site assessment and response actions.

c. Provide necessary review and comment on IR plans of action, reports, etc. to the cognizant NAVFACENGCOM activity.

d. Forward, or authorize cognizant NAVFACENGCOM activity to forward, all final primary documents to the EPA and State regulatory agencies prior to deadlines in either FFAs or State agreements/orders.

e. Be responsible for O&M funding and support for long-term monitoring and operation and maintenance of sites.

f. Provide an IR coordinator and logistic support for IR projects at their installation.

g. Establish and conduct periodic meetings of the RAB for IR Program sites.

h. Provide information as required for updating project exhibits to cognizant NAVFACENGCOM activities for IR Program studies and RAs (i.e., studies, RAs, salaries, support costs).

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i. Provide information as required for updating project exhibits to cognizant Echelon 2 for IR Program salaries, support, travel and training costs.

j. Prepare and implement a public participation program, including a CRP, for IR Program sites.

k. In conjunction with the cognizant NAVFACENGCOM activity, select the remedy and sign the decision documents for all IR Program sites.

l. Participate in negotiations of FFAs and State agreements.

m. Notify appropriate commands of any EPA or State notice of PRP action, and support PRP response.

n. Ensure that IR Program site conditions are considered prior to land use planning, development, or operation, especially in regard to Military Construction (MILCON) and special project development. IR Program review must be incorporated into the shore facilities planning process.

o. Ensure that appropriate information is placed in the information repository(s).

p. Inform the public of the availability of technical assistance grants (TAGs) for installations on the NPL.

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CHAPTER 16

STORAGE TANKS

16-1 Scope

This chapter provides information and guidance applicable to the regulation of storage tanks (STs), both underground storage tanks (USTs) and aboveground storage tanks (ASTs) containing petroleum products and/or hazardous substances (HS) at Navy shore facilities within the United States, the Commonwealth of Puerto Rico, Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Marianas Islands. Responsibilities and requirements pertaining to Navy activities in foreign countries are described in Chapter 18. Petroleum storage tanks are also governed by the Spill Prevention Control and Countermeasure requirements described in Chapter 10.

16-1.1 References. Relevant references are:

a. 40 CFR 110, EPA Regulations on Discharge of Oil;

b. 40 CFR 112, EPA Regulations on Oil Pollution Prevention;

c. 40 CFR 280, EPA Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks;

d. OPNAVINST 5100.23D, Navy Underground Storage Tank Program Guidance Document, NAVFACENGCOM 1989; (NOTAL)

e. Tank Management System (TMS) Guidance Document, NAVFACENGCOM (NOTAL).

16-2 Legislation

16-2.1 Clean Water Act (CWA). The goal of the CWA is to protect the surface waters of the United States. Under the Clean Water Act, EPA published oil pollution prevention regulations in 1973. These regulations, contained in reference (b), were amended in 1974 and again in 1976. The CWA prohibits the discharge of oil into surface waters, if the discharge violates applicable State standards or causes a sheen on, or film upon, or discoloration of the surface of the water or sludge beneath the water surface. The Federal Oil Pollution Prevention Regulations require preparation of Spill Prevention Control and Countermeasures Plans and also contain specific guidelines for the design and operation of petroleum storage tanks (see Chapter 9). The guidelines for oil storage tanks in reference (b) include requirements for secondary containment; control of stormwater drainage from containment areas; corrosion protection of buried metallic tanks and piping; inspection and testing of aboveground tanks; testing of underground tanks and pipelines; requirements for spill prevention devices such as high level alarms, security requirements for oil storage areas, and personnel training requirements. In 1991, the EPA proposed extensive revisions to reference (b), which are to be implemented in 2 phases. The Phase I revisions proposed to change many recommended practices into mandatory regulatory requirements and would also require the registration of aboveground storage tanks. Phase II revisions, which are expected to be more substantive in nature, would include requirements for facility-specific contingency plans and would mandate aboveground storage tank integrity testing. Neither Phase I or Phase II revisions have yet been issued.

16-2.2 Hazardous and Solid Waste Amendments (HSWA). HSWA extended and strengthened the provisions of the Solid Waste Disposal Act (SWDA) as amended by the Resource Conservation and Recovery Act (RCRA). One major

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portion, Subtitle I, provides for the development and implementation of a comprehensive regulatory program for Underground Storage Tanks (USTs) containing "regulated substances" and releases of these substances to the environment. HSWA requires that Federal facilities comply with all Federal, State, and local requirements regarding USTs, including payment of registration fees or permit fees when such fees are not taxes.

Federal regulations outline procedures by which EPA may approve State programs to operate in place of the Federal UST requirements if those State programs have standards that are no less stringent than the Federal requirements and provide for adequate enforcement of compliance with those standards. States with approved UST programs or Memoranda of Understanding (MOUs) with EPA will have primary enforcement responsibility with respect to UST program requirements in their States. Currently most States have a UST regulatory program in place. After EPA approves the State program, facilities must comply with all applicable provisions of the State UST programs.

16-3 Terms and Definitions

16-3.1 Above Ground Storage Tanks (ASTs). All tanks and attached piping containing regulated substances in which greater than 90 percent of the tank volume (including piping) is above the surface of the ground.

16-3.2 Petroleum. Petroleum, including crude oil or any fraction thereof, that is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute.)

16-3.3 Regulated Substance. Any HS regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (excluding any substances regulated as hazardous waste (HW) under Subtitle C of RCRA), and petroleum substances including crude oil, motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents and used oils.

16-3.4 Release. Any spilling, leaking, emitting, discharging, escaping, leaching, or disposing of a HS or petroleum from a ST into ground water, surface water, or subsurface soils.

16-3.5 Storage Tanks (STs). All storage tanks (both above and underground), containing regulated substances.

16-3.6 Tank Management Plan. An operations and management document, for activity-level use, that stresses above and underground storage tank spill prevention, planning, regulatory compliance, and record keeping.

16-3.7 Underground Storage Tanks (USTs). All tanks and attached piping containing regulated substances in which 10 percent or more of the tank volume (including piping) is beneath the surface of the ground. The following systems are excluded from Federal regulation under RCRA Subtitle I (but may be regulated by States):

a. Any UST system holding HW listed or meeting the criteria of Subtitle C of RCRA, or a mixture of such HW and other regulated substances (such tanks are regulated under RCRA Subtitle C).

b. Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the CWA.

c. A farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes.

d. A tank of 1,100 gallons or less used for storing heating oil for consumptive use on the premises where stored.

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e. A stationary tank of 1,100 gallons or less used for storing fuel to supply stationary fuel-fired equipment through a system of fixed valves or piping.

f. Any UST system that contains a de minimis concentration of regulated substances.

g. Any emergency spill or overflow containment UST system that is expeditiously emptied after use.

h. Any tank system on or above the floor of underground areas, such as basements or tunnels.

i. Any surface impoundment, pit, pond, or lagoon.

j. Any septic tank or stormwater/wastewater collection system.

k. Any flow-through process tank.

l. A liquid trap or associated gathering lines directly related to oil or gas production and gathering operations.

m. A pipe connected to a tank, system, trap, or line described in clauses 16-3.7a through l.

16-4 Requirements

16-4.1 General Operating Requirements

16-4.1.1 Transfer operations will be monitored to ensure that spilling or overflowing does not occur. Overfill protection equipment will be maintained to prevent releases.

16-4.1.2 Corrosion protection measures, including cathodic protection, will be maintained and inspected.

16-4.1.3 Installation of new ST systems and repairs to existing ST systems will be conducted according to Federal, State, and local requirements.

16-4.1.4 Written records demonstrating compliance with operational requirements will be maintained by the activity.

16-4.2 Aboveground Storage Tanks (ASTs)

16-4.2.1 General Operating Requirements. ASTs are not currently subject to Federal regulation beyond the petroleum pollution prevention and discharge reporting requirements of references (a) and (b). Some States have new AST regulations, but these are not applicable to the Navy by law since there has been no waiver of sovereign immunity except where an agreement to the contrary has been executed between the Navy and a State. Activities with ASTs will apply best management practices to the daily operation of those ASTs.

16-4.2.2 Release Detection, Testing, and Inspection. Whenever possible, release detection systems will be installed on AST systems.

16-4.2.3 Release Reporting, Investigation, and Confirmation. Releases of petroleum or HS from ASTs should be reported according to the guidance in Chapter 10. Suspected releases from the underground portions of ASTs will be immediately investigated by integrity testing and/or by performing a subsurface investigation. If regulated substances are found in adjacent properties, then the EPA or State agency can require an activity to conduct a release investigation of suspect STs.

16-4.2.4 Out-of-Service ASTs and Closure. Permanent closure of ASTs will be conducted per any applicable State or local regulations. At a minimum, ASTs and associated pipelines will be emptied and cleaned and pipelines will be either capped or blank flanged, and marked as to origin.

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16-4.3 Underground Storage Tanks (USTs)

16-4.3.1 General Operating Requirements

16-4.3.1.1 All new UST systems must be protected from corrosion, must be equipped with spill/overfill prevention equipment and with an approved method of release detection, and must be installed per nationally recognized standards. New pressurized piping that conveys regulated substances must also be properly designed, constructed, protected from corrosion, and equipped with an automatic line leak detection system. Repairs will be tested for tightness; records of all repairs are required to be maintained for 5 years.

16-4.3.1.2 Existing USTs that are regulated by Federal, State, or local regulations will be either replaced or upgraded to meet corrosion protection and spill/overfill prevention standards by 22 December 1998 or per applicable Navy/State agreement. Existing USTs that are either exempt or deferred from the UST regulations will be replaced or upgraded if possible, particularly if those USTs are located in environmentally sensitive areas. Existing USTs will be upgraded by the addition of secondary containment, spill/overfill prevention equipment, and corrosion protection as dictated by the activity's SPCC plan. Existing piping associated with tank systems will also be either upgraded or replaced to meet corrosion protection requirements.

16-4.3.1.3 All new and existing HS USTs and associated underground piping will have secondary containment by 22 December 1998 or per applicable Navy/State agreement.

16-4.3.2 Release Detection, Testing, and Inspections. Any UST system that stores fuel solely for emergency power generators is exempt from release detection requirements.

16-4.3.2.1 Release detection systems will be installed on petroleum and HS UST systems as required by Federal, State, or local regulations. Whenever possible, release detection systems will also be installed on non-regulated USTs.

16-4.3.2.2 Records demonstrating compliance with release detection requirements and with testing and inspection requirements will be maintained by the activity.

16-4.3.3 Release Reporting, Investigation and Confirmation

16-4.3.3.1 Releases and suspected releases from USTs will be reported to the EPA or State agency within 24 hours of discovery. HS releases and releases of petroleum or HS into surface waters from USTs should be reported according to the guidance in Chapter 11.

16-4.3.3.2 Suspected releases from USTs will be immediately investigated by integrity testing and/or by performing a subsurface investigation. If regulated substances are found in adjacent properties, then the EPA or State agency can require an activity to conduct a release investigation of suspect STs.

16-4.3.4 Release Response and Corrective Action for UST Systems Containing Regulated Substances

16-4.3.4.1 After a confirmed release is reported to either the EPA or State agency, further release of regulated substance from the UST must be stopped, and fire, explosion, and vapor hazards will be mitigated. If necessary to prevent any further release, the UST system will be emptied. Steps to prevent further migration of any aboveground or exposed below ground releases will be taken. If the source of an underground release is not known, subsurface sampling will be conducted in order to determine the source. The possible presence of free product will be investigated and recovery of free product will be conducted as soon as practicable. UST releases into surface waters require the response actions described in Chapter 10 to be taken.

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16-4.3.4.2 UST releases require an initial abatement report, initial site characterization report, and free product recovery report to be submitted to the EPA or State agency within the time frame specified by the agency. In addition, a release investigation report and/or corrective action plan will be submitted if requested or otherwise required by the EPA or State agency.

16-4.3.4.3 Soil and groundwater contamination resulting from UST releases will be cleaned up per an approved corrective action plan or as otherwise authorized or requested by the EPA or State agency. Prior to any cleanup, the EPA or State agency will be notified of the activity's intent to begin cleanup.

16-4.3.4.4 Free floating product will be removed to the maximum extent practicable.

16-4.3.4.5 Soil and ground-water contamination will be investigated to determine cleanup measures.

16-4.3.5 Out-of-Service UST Systems and Closure

16-4.3.5.1 Corrosion protection systems will be maintained during temporary closure of an UST system even if the system is empty. Release detection systems will continue to be operated unless the system is emptied.

16-4.3.5.2 When USTs are temporarily closed for 3 months or more, vent lines will be left open and functioning and all other lines, pumps, manways, and ancillary equipment will be capped and secured.

16-4.3.5.3 USTs that do not meet the standards for new or upgraded UST systems will be permanently closed within 12 months of temporary closure unless an extension is granted by the EPA or State agency.

16-4.3.5.4 The EPA or State agency will be notified at least 30 days in advance of an UST permanent closure. For permanent closure, USTs will be emptied, cleaned, and either filled with a solid inert material or removed from the ground. A site assessment will be conducted at the time of permanent closure unless an approved external release detection method was in use prior to closure. If contamination is encountered during closure, then corrective action will be initiated.

16-4.3.5.5 Continued use of a regulated UST system to store a non-regulated substance is considered a change-in-service. A change-in-service requires that the UST be emptied and cleaned and that a site assessment be performed. The EPA or State agency will be notified 30 days in advance of a change-in-service.

16-4.3.5.6 The EPA or State agency can require investigation and cleanup of USTs that were permanently closed prior to 22 December 1988 if the UST site may pose a threat to human health or the environment.

16-4.3.5.7 Permanent closure, site assessment, site characterization, and corrective action records will be maintained for at least 50 years to protect the Navy from potential future liability.

16-5 Navy Policy

16-5.1 The Navy's ST Program policy is to comply with all applicable Federal, State, and local regulations pertaining to the management of STs.

16-5.2 Whenever possible, the Navy shall replace older, unprotected steel tanks with state-of-the-art ASTs or state-of-the-art double-walled USTs with continuous interstitial monitoring.

The Navy's preferred method of UST system closure is by removal. Leaving an UST system in the ground and filling it with an inert material

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shall be done only when extenuating circumstances preclude the removal of an UST system.

16-5.3 Navy activities with STs shall have a tank management plan containing the following information:

a. Listing of all STs at the Activity.

b. For USTs, the regulatory requirements for each.

c. A plan of action for achieving and maintaining compliance through monitoring, removal, repair, retrofit, replacement, and remediation of regulated ST systems.

It is recommended that the ST management plan include all STs that have the potential to cause environmental damages and/or health hazards regardless of whether the ST is included in existing regulations. For example, a currently exempt UST, such as an UST that stores heating oil, should be included in the UST management plan if a release from the UST has the potential to cause environmental problems such as groundwater contamination. In addition, non-regulated ASTs that are likely to be included in future Federal, State, or local regulations should be included in the ST management plan.

16-5.4 Reference (e) details Navy policy and technical guidance for the implementation of the Navy's UST program. The principles therein can be expanded to include ASTs and non-regulated USTs.

16-5.5 Training. Environmental Engineers, Environmental Planners, activities, Resident Officer in Charge of Construction (ROICC), Public Works Department (PWD) Engineers, major claimant staff, and all other personnel involved in the design, construction, installation, management, and operation of storage tanks shall be trained on storage tank systems. This training shall include as applicable: corrosion protection measures, compliance records, release detection, reporting investigation and confirmation, corrective action plans, closure, site assessment, Federal, State, and local regulations pertaining to STs, monitoring, removal, repair, retrofit, replacement, remediation, leak detection and product inventory requirements, recordkeeping and operation of monitoring systems.

16-6 Responsibilities

16-6.1 COMNAVFACENGCOM shall:

a. Assist Navy activities in the preparation of ST Management Plans and Pollution Control Reports (PCRs).

b. Provide technical advice and assistance to Navy activities for leak detection services.

c. Revise technical directives and design manuals to reflect regulatory requirements for new construction of STs, including underground piping and leak detection devices.

d. Provide assistance to major commands and their installations for estimation of resource requirements.

e. Provide funding and execution of ST corrective actions that qualify for Defense Environmental Restoration Account (DERA) funding and are within current priorities.

f. Ensure funding is available to train Engineering Field Division (EFD) Environmental Engineers, Environmental Planners, and other personnel involved with STs.

16-6.2 COMNAVSUPSYSCOM shall provide technical input and assistance to COMNAVFACENGCOM concerning leak detection, construction of new STs, and the disposition of petroleum recovered during site restoration.

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16-6.3 Major claimants and subordinate commands shall include requests for resources to meet ST compliance requirements in Program Objective Memorandum (POM)/budget submittals.

16-6.4 Commanding officers of shore activities shall:

a. Assemble and collate ST data including storage tank volume, type, installation date, and tank contents for achieving and maintaining compliance with all applicable Federal, State, and local laws and regulations.

b. Ensure that notification forms are completed for regulated STs and forward the notification to the appropriate State agency. Copies shall be provided to Naval Facilities Engineering Services Center (NFESC), cognizant NAVFACENGCOM EFDs, and the chain of command.

c. Prepare and maintain ST Management Plans, with assistance from NAVFACENGCOM, to document a plan of action for achieving and maintaining compliance with all applicable Federal, State, and local laws and regulations. The Plan shall include or reference compliance records demonstrating storage tank inspection/testing of corrosion protection system, release detection system, secondary containment systems, spill and overflow controls, repair documentation, site investigation results and closure.

d. Accomplish leak detection and product inventory requirements, recordkeeping and operation of monitoring systems required by Federal, State, and local ST laws and regulations.

e. Fund the installation of tank leak detection and monitoring systems required by local, State, and Federal regulatory agencies.

f. Budget sufficient resources to replace or repair STs as required by applicable Federal, State, and local laws and regulations or by best management practices.

g. Comply with applicable Federal, State, and local laws and regulations concerning the construction of new ST systems.

h. Prepare PCRs and exhibits, with the assistance of NAVFACENGCOM EFDs, for all compliance-mandated ST projects, regardless of funding source.

i. Ensure that all actions involving tank management follow all occupational health and safety requirements per reference (d).

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CHAPTER 17

NOISE PREVENTION ASHORE

17-1 Scope

This chapter identifies requirements and responsibilities for reducing environmental noise from Navy shore operations. Navy policy is to comply with the Noise Control Act, and Federal, State, and local noise control regulations the same as any private person, as required by EO 12088. The requirements apply within the United States, Commonwealth of Puerto Rico, Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands. Shipboard noise abatement is addressed in Chapter 19. Navy noise abatement policy for activities in foreign countries is provided in Chapter 18.

17-1.1 References. Relevant references are:

a. DoD Directive 4165.57 of 8 November 1977, Air Installations Compatible Use Zones; (NOTAL)

b. OPNAVINST 5100.23D, Navy Occupational Safety and Health (NAVOSH) Program Manual; (NOTAL)

c. OPNAVINST 11010.36A, Air Installations Compatible Use Zones (AICUZ) Program (NOTAL).

17-2 Legislation

17-2.1 The Noise Control Act. The Noise Control Act provides that Federal performance standards shall be incorporated into the design of certain new vehicles, railroad equipment, and products to reduce noise emissions. Retrofit modifications are not prescribed for existing noise sources. Military aircraft, combat equipment, and weapon systems are exempt from new product design standards. State and local laws may prescribe maximum noise levels across property lines. Boundary noise limits are attainable by a variety of structural and natural noise path barriers and by source design modifications.

17-3 Terms and Definitions

17-3.1 Air Installations Compatible Use Zones (AICUZ). The AICUZ program is designed to work with local communities on controlling the land uses around military installations. Its objectives are to assess the environmental impact of aircraft operations with regard to generated noise and accident potential produced by proposed actions and both on and off-base noise sources, comply with Federal regulations, ensure the installation's mission is compatible with local land uses, and minimize environmental noise impacts through engineering, operational controls, siting, and architecture.

17-3.2 Environmental Noise. The intensity, duration, and character of sounds from all sources.

17-3.3 Low-Noise-Emission Product. Any product that emits noise at a Sound Pressure Level less than at least one-half the levels specified in noise emission standard under regulations applicable to that type of product under the Noise Control Act, Section 6, at the time of procurement.

17-4 Requirements

17-4.1 Air Installations Compatible Use Zone. The AICUZ was established by reference (c) to identify and address incompatible development in areas that are adjacent to air installation and subject to rated levels of aircraft noise and/or accident potential.

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17-5 Navy Policy

17-5.1 General. Noise control and abatement shall provide:

a. Maintenance of an active program to protect both on and off base personnel from hazardous noise levels in coordination with other Federal agencies.

b. Procurement, whenever feasible, of low-noise-emission products.

c. Soundproofing, whenever feasible, of Navy owned/operated schools and hospitals affected by noisy military operations.

d. Locating of noise-sensitive housing and other developments away from major noise sources.

e. Cooperation with and support of neighborhood self help programs to identify and address local noise problems.

17-5.2 Workplace Noise. Workplace noise shall not be considered environmental noise unless it crosses the facility boundary with sufficient intensity to become regulated by local environmental noise requirements. Workplace noise abatement is required by reference (b).

17-5.3 Aviation Noise Suppression

17-5.3.1 The Navy shall consider ameliorating options such as remote siting, sound suppression equipment, and sound barriers, when developing new aircraft related systems, such as engine test stands.

17-5.3.2 The Navy shall include suitably quiet associated ground support equipment (e.g. starters, hush houses) in procurement (Aircraft Procurement, Navy (APN) funds) of new jet or other aircraft systems.

17-5.4 Restricting Noisy Operations. To the maximum extent practicable, Navy shore activities shall limit the use of power tools, machinery, construction equipment, or other noisy devices to normal working hours.

17-5.5 Training

a. Navy personnel engaged in processes that result in environmental noise at shore activities shall receive training on noise pollution reduction.

b. Engineering Field Division (EFD) environmental engineers and environmental planners shall receive training on noise pollution prevention programs.

17-6 Responsibilities

17-6.1 NAVFACENGCOM shall, if requested, act as technical consultant to major claimants and activities regarding noise abatement, suppression, and development of compliance strategies.

17-6.2 Major claimants and subordinate commands shall:

a. Initiate procurement procedures that ensure products and equipment not designed for combat use meet Federal noise standards.

b. Promote research to define and study noise pollution problems unique to the Navy and coordinate such research with other DoD components and with EPA.

c. Ensure that ground equipment associated with procurement of new and/or follow-on jet aircraft contain necessary noise suppressors.

17-6.3 Commanding officers of shore activities shall:

a. Comply with the policies in this manual.

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b. Comply with applicable substantive and procedural Federal, State and local control and abatement laws and regulations.

c. Cooperate with Federal, State, and local noise pollution regulatory officials.

d. Implement procedures for limiting on-base noisy operations and for reducing property line noise levels as required by local law or regulation.

e. Periodically verify and record that environmental noise levels are within local community requirements, and if not, what corrective actions have been taken or planned to achieve compliance.

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CHAPTER 18

OVERSEAS ENVIRONMENTAL COMPLIANCE ASHORE

18-1 Scope

This chapter provides environmental guidance for Navy installations outside the United States, (U.S.) its territories, and possessions, but not to ships, aircraft, and operational and training deployments outside the U.S. Specifically, this chapter does not apply to:

a. U.S. military ship and aircraft operations governed by other DoD policies and directives and applicable international agreements.

b. Facilities and activities covered under Executive Order (EO) 12344, Naval Nuclear Propulsion Program, and conducted under 42 U.S.C. 7158.

c. Facilities located in Antarctica.

Since this chapter applies only to overseas installations, the format is different than the majority of the remaining chapters. Each section covers the appropriate legislation, requirements, policy, and training while the Navy policy subsection is divided by environmental media. Responsibilities are summarized by command at the end of the chapter.

18-1.1 Executive Orders (EOs). This chapter incorporates the following Executive Orders:

a. EO 12088 of October 13, 1978, which requires Federal compliance with substantive pollution control standards of general applicability.

b. EO 12114 of January 4, 1979, which requires a environmental analysis of major Federal actions overseas having potentially significant environmental effects.

18-1.2 References

a. DoD Directive 6050.16 of 20 September 1991, Establishment and implementation of environmental standards at overseas installations; (NOTAL)

b. DoD Overseas Environmental Baseline Guidance Document (OEBGD) of October 1992; (NOTAL)

c. OPNAVINST 5510.1H, Security Requirements; (NOTAL)

d. OPNAVINST 5510.155C, Classified Supplement to the Manual for Disclosure of Classified Military Information to Foreign Governments and International Organizations; (NOTAL)

e. Final Governing Standards (FGSs) as developed by Executive Agents for each country with significant DoD installations (NOTAL).

18-2 Legislation

18-2.1 National Historic Preservation Act (NHPA). With respect to overseas activities, the NHPA requires Federal agencies undertaking actions that may directly and adversely affect property on the World Heritage List or the applicable country's equivalent of the National Register to consider the effect and try to avoid or mitigate any adverse effects.

18-2.2 Toxic Substances Control Act (TSCA). Provides for the Federal regulation of the manufacture, use, distribution in commerce, and disposal of chemical substances that present a hazard to health or the environment. Overseas installations that export from or import to the U.S. may be subject to TSCA Sections 12 and 13. DoD

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dependents' schools overseas are subject to the asbestos hazard emergency response requirements in TSCA Subchapter II. Section 12 contains export notification obligations, and export exemptions. Section 13 discusses importer regulations, definitions, and exclusions.

18-3 Terms and Definitions

18-3.1 Environment. The natural and physical environment. It excludes social, economic and/or other environments.

18-3.2 Executive Agent (EA). A military service, military command or sub-unified command designated by the Deputy Under Secretary of Defense for Environmental Security (DUSD(ES)) after receiving the recommendations from the Joint Chiefs of Staff (JCOS) and coordinating with the Military Departments. Establishes reference (e) for DoD installations within its geographic area of responsibility. The EA consults with host nation authorities on environmental issues of concern to the DoD components. The following is a list of EAs for different countries:

COMMAND	COUNTRY
CINCUSNAVEUR	Spain, Italy, Greece
CINCLANTFLT	Iceland, Bermuda, Caribbean (including Cuba), and all other Atlantic locations)
CINCPACFLT	Diego Garcia
U.S. Forces Japan	Japan
U.S. Forces Korea	Korea
CINCUSAFE	United Kingdom, Turkey
USAF Space Command	Ascension Islands, Greenland
USAF Air Mobility Command	Azores
CINCAREUR	Germany, Belgium, Netherlands
CINCARSO	Panama and all other countries in U.S. Southern Command
CINCCENT	All countries in area of responsibility (AOR), including Egypt and Bahrain

EAs establish reference (e) for DoD installations within their region under reference (a).

18-3.3 Final Governing Standards (FGS). Country-specific substantive provisions, typically technical limitations on effluent, discharges, etc., or specific management practices with which installations must comply. Reference (e) are derived from reference (b), host nation substantive pollution control laws of general applicability, applicable treaties and U.S. law with extraterritorial application.

18-3.4 Foreign Nation. A geographic area (land, water, and airspace) that is under the territorial jurisdiction of a foreign government or that is under military occupation by the U.S. alone or jointly with any other foreign government.

18-3.5 Overseas Environmental Baseline Guidance Document. A current compendium of criteria, based on consideration of laws generally applicable to similarity-situated DoD installations within the U.S., that is designated to protect the environment at DoD installations outside U.S. territory.

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18-3.6 United States. All States, territories, and possessions of the U.S. and all waters and airspace subject to the territorial jurisdiction of the U.S.

18-4 Requirements

Navy shore activities in foreign nations will comply with applicable reference (e). Where reference (e) have not been issued, Navy shore activities will comply with reference (b), host nation substantive pollution control laws of general applicability (as required by EO 12088), U.S. law with extraterritorial effect and applicable treaties (including the SOFA).

18-5 Navy Policy

18-5.1 Fixed Facilities Provided by the U.S. and Operated by the Navy. In nations where there is a reference (e), all Navy facilities and operations shall comply with reference (e). Where reference (e) have not been issued, Navy shore activities will comply with reference (b), host nation substantive pollution control laws of general applicability (as required by EO 12088), U.S. law with extraterritorial effect and applicable treaties (including the SOFA).

18-5.2 Funding of Capital Improvements for Environmental Compliance at Overseas Installations. When capital improvements are required at overseas installations to comply with either the reference (e) or reference (b) and EO 12088, as applicable, funding decisions shall be based on a number of considerations including which country provided the facilities in question and provisions of the pertinent Status of Forces Agreement (SOFA). Navy policy is that unless otherwise provided in the pertinent SOFA, the host nation is expected to fund environmental compliance projects at facilities that the host nation provides. After consultation or negotiation with the host nation, funding questions may be resolved in a number of ways including the following:

a. Pollution abatement improvements may be accomplished as a result of inclusion in bilateral or multilateral negotiations on programs not directly involving environmental compliance.

b. In some cases host country-provided facilities have been significantly modified by the U.S. to meet operational requirements. When capital improvements are required to meet the environmental standards of general applicability in the host country or jurisdiction, the Navy may negotiate shared contributions for such improvements. It may be done, after consultation with the ambassador, when it is in the best interest of the Navy and does not establish a precedent. The contribution should normally be no more than the proportion of modification attributable to the U.S. Project funding request documents shall indicate the results of negotiations to include the basis for determination of the U.S. share.

c. If the host country declines to provide funds for required capital improvements or if negotiations with the host country for shared contributions are unsuccessful, the Navy may, when in the best interests of the Navy and without establishment of precedent, program for required pollution control capital improvement projects. Project funding request documents shall indicate the circumstances under which the projects are submitted.

18-5.3 Facility Visits and Inspections. Federal law and EOs on information and physical security matters, as implemented in Navy regulations and the SOFA, shall govern access of host country environmental officials to U.S. controlled fixed facilities. Foreign environmental officials shall not be allowed access to Navy vessels for purposes of environmental inspections or examination. Access by foreign officials to propulsion plant spaces of U.S. naval nuclear powered ships, or to naval nuclear propulsion information, is not authorized as established in reference (c) and reference (d) without CNO approval (N00N lead). If there are no provisions governing access, the

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senior U.S. commander of U.S. forces in the host country shall determine if access is in the best interest of the U.S. If access is recommended, Deputy Chief of Naval Operations (Logistics) (DCNO (Logistics)) shall be notified at least 3 working days before the visit. Notification shall include confirmation that the intended access shall not set any adverse precedents for other commands. Access may then be granted to host country environmental officials responsible for national pollution control matters. If access is denied, CNO (N4) shall be notified immediately. The U.S. ambassador to the country shall also be advised if access is denied.

a. Installation commanders shall consult with the Environmental EA for the host nation, or with the commander in chief (CINC) where no EA has been appointed, to pre-establish procedures for access by host nation officials. Procedures shall comply with the applicable SOFA and established practices implementing the SOFA. Installation commanders shall comply with access procedures so established.

b. Where host nation officials request access in addition to those established through the CINC, the installation commander shall immediately notify the Navy component commander in theater, the environmental EA (if applicable) and CNO (N4). The notice shall include the identity of the host nation authority needing access, the extent to which the host nation authority requesting access is delegated national authority for pollution control, the extent of access requested, the date for which access is requested, an explanation why established access procedures (if applicable) are insufficient, the extent to which granting the request would establish precedent and the commander's recommendation whether providing access would be in the best interest of the U.S. Unless otherwise directed, the installation commander may permit access after completing consultation with the environmental EA, component commander and CNO (N4) or 3 working days after providing notification, whichever is earlier. If access is denied, the installation commander shall notify the same parties and shall ensure that the Chief of Mission with the U.S. ambassador to the country has been notified as well.

c. Access by foreign officials to propulsion plant spaces of nuclear powered ships, or to naval nuclear propulsion information is governed by reference (d) and is not authorized without approval by CNO (N00N).

18-5.4 Mobile Sources. Military vessels, aircraft, and vehicles that are operated in a host country and manufactured in the U.S. shall be designed to comply with applicable U.S. or international environmental standards. Reference (e) shall govern the operation and maintenance of mobile sources, other than vessels and aircraft, that are based in a host country where such provisions have been issued. If no reference (e) have been issued, the operation and maintenance of mobile sources, other than aircraft and vessels, based in the host country, shall be governed by applicable provisions of the SOFA, reference (b) and EO 12088. In particular, EO 12088 requires compliance with substantive host nation pollution control laws of general applicability. In most instances, these shall be the pollution control standards observed by the host nation's military forces for similar vehicles. Except for sovereign immune vessels and aircraft and unless otherwise provided in the SOFA, transient mobile sources or those sources temporarily within a foreign jurisdiction are subject to that country's standards for the terms and conditions set forth in the clearance for the visit. Although not subject to enforcement by the host nation, sovereign immune vessels and aircraft shall operate under the environmental protection provisions of their visit clearance. Where no specific environmental protection provisions are included in the visit clearance, sovereign immune vessels and aircraft shall comply with the environmental protection standards used by the host nation's military forces to the extent practical.

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18-5.5 If an installation commander believes that compliance with a particular reference (e) would seriously impair the installation's operation, adversely affect relations with the host nation or require substantial expenditure of funds not available for such purpose, he or she may request that the DON, through the chain of command, ask the EA to waive or authorize deviation from the particular standards or guidelines under the procedures set out in reference (b). Navy policy is to minimize requests for waivers and to limit the duration of waivers where requested. Requests for waivers are appropriate, for example, where the cost of the project to achieve compliance at a base slated for closure is grossly disproportionate to the period during which environmental benefits would be derived from the project. Where this instruction or instructions by Navy component commanders require measure that are more protective the applicable reference (e), installation commanders shall request a waiver from the EA before requesting funding for the project.

18-5.6 National Environmental Policy Act (NEPA). NEPA does not apply overseas; however, EO 12144 addresses environmental effects abroad of major Federal actions. See Appendix E.

18-5.7 Pollution Prevention Ashore. EO 12856, which requires Federal facility compliance with the Pollution Prevention Act, does not apply to facilities outside the customs territory of the U.S. (Although Guam is generally treated as part of the U.S. for environmental laws, it is outside the customs territory. Despite this, as a matter of policy, Navy activities in Guam shall comply with EO 12856). Navy activities shall prepare pollution prevention plans as outlined in Chapter 3.

18-5.8 Emergency Planning and Community Right to Know Act. EO 12856, which requires Federal facility compliance with the Emergency Planning and Community Right to Know Act, does not apply to facilities outside the customs territory of the U.S. (Although Guam is generally treated as part of the U.S. for environmental laws, it is outside the customs territory. Despite this, as a matter of policy, Navy activities in Guam shall comply with EO 12856).

18-5.9 Clean Air Ashore. Navy activities shall manage their air programs under reference (e). In addition, activities shall encourage the use of unleaded fuels.

18-5.10 Ozone Depleting Substances (ODS). Navy activities shall manage their use of ODS under Chapter 6 and reference (e).

18-5.11 Water Programs Ashore. Navy activities shall manage their water programs under reference (e). Commanding officers (COs) shall ensure that overseas Navy treatment plant and collection system operators receive equivalent training and certification as discussed in Chapter 7.

18-5.12 Drinking Water Systems and Water Conservation. Navy activities shall manage their drinking water under reference (e).

COs shall ensure that overseas water system operators receive equivalent water system operator training as discussed in paragraph 8-5.2.

18-5.13 Oil Management. Navy activities shall manage their oily wastes and waste oils under reference (e). Use Chapter 9 as a guide in the development of spill plans, ensuring equivalent personnel training, testing of fuels, meeting specifications, and designating certain waste oils as hazardous wastes.

18-5.14 Oil and Hazardous Substances (OHS) Contingency Planning. Navy activities shall manage OHS planning under reference (e).

18-5.15 Polychlorinated Biphenyls (PCB) Management Ashore. Navy activities shall manage their PCBs under reference (e). This includes the development of management plans, ensuring

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personnel training, labeling, spill planning/response, and Navy reporting. Navy policy shall be to minimize the use of PCBs and PCB items in foreign countries without degrading mission performance. PCBs manufactured outside the U.S. ordinarily cannot be imported into the U.S., even for disposal. Accordingly, Navy activities shall not purchase or otherwise take control of PCBs or PCB items manufactured outside the U.S. without express permission of CNO (N4). As part of ongoing management programs, Navy activities shall identify those PCBs and PCB items manufactured outside the U.S. to avoid inadvertent importation into the U.S.

18-5.16 Hazardous Waste (HW) Management Ashore. Navy activities shall manage their HW under reference (e). This includes the development of management plans, ensuring equivalent training, labeling, spill planning/response, Navy reporting, and implementing HW minimization.

18-5.17 Pesticide Compliance Ashore. Navy activities shall manage their pesticides under reference (e).

18-5.18 Solid Waste Management and Resource Recovery Ashore. Navy activities shall ensure compliance with solid waste standards under reference (e). Reference (a), as implemented by reference (b), requires an ongoing program to evaluate environmental compliance at overseas installations.

18-5.19 Cleanup and Restoration. The Installation Restoration (IR) program is limited to the U.S., its territories, and possessions, and does not apply to foreign countries. However, past DoD activities have caused the need for environmental cleanup and restoration. International agreements, SOFA, and U.S. government policy shall be used to decide whether cleanup action should be coordinated with the EA.

18-5.20 Storage Tanks. Navy activities shall manage their above and underground storage tanks under reference (e). Use Chapter 16 as a guide in managing storage tanks.

18-5.21 Noise Prevention Ashore. Navy activities shall ensure compliance with the noise abatement measures of reference (e).

18-5.22 Environmental Compliance Evaluation Ashore. Overseas installations shall use checklists developed from reference (e). Prior to the establishment of reference (e), the installation shall use reference (b) and Environmental Compliance Evaluation (ECE) program checklists as guidance in developing appropriate checklists and performing environmental compliance evaluations.

18-5.23 Natural Resources Management. Navy activities shall program and budget for compliance and ensure compliance with reference (e).

18-5.24 Historic and Archeological Resources Protection. Navy activities shall ensure compliance with the historic and archeological resources of reference (e).

18-5.25 Training. Navy activities shall comply with the training measures outlined in Chapter 24 of this instruction. In addition, Navy components delegated authority to act as EAs shall carry out the training responsibilities established by reference (b) within the host nations for which they are responsible. Such Navy components shall also develop environmental audit checklists for the nations for which they are responsible.

18-6 Responsibilities

18-6.1 CNO (N45) shall ensure major claimants allocate the resources required to achieve and maintain compliance with reference (e).

18-6.2 Major claimants and subordinate commands shall:

a. Ensure compliance with reference (e) established by the EA.

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b. Conduct environmental compliance evaluations at overseas installations at least once every 3 years or when directed by the Unified Commander.

c. Program and budget for environmental compliance projects.

d. Ensure that contracts for services or construction, where performance takes place at an overseas activity, and DoD contracts for the disposal of HW, include provisions requiring a contractor to comply with reference (e). The major claimant shall also ensure that contracts are administered to enforce such compliance.

e. Ensure host-tenant agreements address compliance with reference (e).

f. Communicate with EAs on environmental issues.

g. Endorse activity waiver requests from reference (e) or reference (b).

18-6.3 Commanding officers of overseas shore activities shall:

a. Comply with reference (e).

b. Develop and conduct training/education programs to instruct required personnel in the environmental aspects of their job.

c. Perform and document annually (except when external audits are conducted) internal installation environmental compliance evaluations (ECE). The purpose of the internal ECE is to provide an overall compliance assessment status of the installation.

d. Communicate with the EA on environmental issues.

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CHAPTER 19

ENVIRONMENTAL COMPLIANCE AFLOAT

19-1 Scope

19-1.1 **General.** This chapter defines environmental compliance policies and procedures applicable to shipboard operations. Since this chapter applies only to ships and floating drydocks and covers all media, the format of this chapter is different than the remainder of the manual. It is organized according to the various pollutants produced aboard ship. Each section lists the applicable legislation, definitions, requirements, policy, and training. Responsibilities are summarized by command at the end of the chapter. Topics covered in this Chapter are as follows:

Section	Topic	Page No.
19-2	General	19-2
19-3	Sewage	19-8
19-4	Air	19-11
19-5	Oil and Oily Waste	19-12
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19-11	Protection of Marine Mammals	19-28
19-12	Floating Drydocks	19-28
19-13	Noise	19-29
19-14	Responsibilities	19-29

19-1.2 **Applicability.** This chapter applies to U.S. Navy ships and floating drydocks world wide. As appropriate, it applies to the boats and other craft carried by these ships. This chapter also applies to those ships under contract to the Military Sealift Command (MSC) that are public vessels of the United States (U.S.). Vessels owned or bareboat chartered and operated by the MSC are public vessels. This chapter does not apply to those ships under contract to MSC that are not public vessels, such as ships that are time- or voyage-chartered.

19-1.3 **References.** Relevant references for this chapter are:

a. DoD Directive 4210.15 of 27 July 1989, Hazardous Material Pollution Prevention; (NOTAL)

b. DoD Directive 6050.4 of 16 March 1982, Marine Sanitation Devices for Vessels Owned or Operated by the Department of Defense; (NOTAL)

c. DoD Directive 6050.15 of 14 June 1985, Prevention of Oil Pollution from Ships Owned or Operated by the DoD; (NOTAL)

d. OPNAVINST 3100.6F, Special Incident Reporting (OPREP 3, Navy Blue, and Unit SITREP) Procedures; (NOTAL)

e. OPNAVINST 5100.19C, Navy Occupational Safety and Health (NAVOSH) Program Manual for Forces Afloat; (NOTAL)

f. Naval Ships' Technical Manual (NSTM), Chapter 593, Pollution Control; (NOTAL)

g. NAVSEA Shipboard Management Guide for PCBs, NAVSEA Pub S9593-A1-MAN-010 and NAVSEA PCB Advisories; (NOTAL)

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h. OPNAV Publication P-45-113-93, Afloat Medical Waste Management Guide; (NOTAL)

i. NAVFACENGCOM Manual MO 909 (Oil Ship Waste Offload Barge); (NOTAL)

j. NAVMED Publication P-5010-7, Manual for Naval Preventative Medicine, Sewage Disposal Ashore and Afloat; (NOTAL).

19-2 General

19-2.1 Terms and Definitions

19-2.1.1 Contiguous Zone. A zone of the ocean extending from 3-12 nm from the U.S. coastline.

19-2.1.2 Navigable Waters. The territorial sea and internal waters (rivers, lakes) of the U.S.

19-2.1.3 Territorial Sea. For purposes of this instruction, a zone of the ocean extending from the U.S. coastline out to 3 nm from shore.

19-2.2 Navy Policy

19-2.2.1 Environmentally Sound Ships. Protection of the marine environment is mission essential. Navy ships shall conduct operations, in port and at sea, in such a manner as to minimize or eliminate any adverse impact on the marine environment.

19-2.2.2 Shoreside Support to Ships. Compliance with local environmental requirements often requires specialized knowledge, expertise or capability that afloat units may lack. To the maximum extent possible, shore commands and Regional Environmental Coordinators (RECs) shall provide to afloat units, upon request, such assistance as may be necessary to ensure environmental compliance by afloat units.

19-2.2.3 Environmental Inspection of Navy Ships. Navy ships shall be made available for inspection by environmental officials provided the inspector demonstrates a legitimate basis for requesting access, and subject to the requirements to protect national security information.

19-2.2.3.1 Environmental Inspector Access Procedures. If a State or local inspector requests access to inspect a Navy ship, the following procedures shall be followed:

a. Confirm the inspector's credentials.

b. The inspector shall identify spaces or work sites to which access is requested.

c. The inspector shall make known the nature of the activity to be examined and its relationship to regulations. Counsel should be consulted if there is any question on the applicability of the law or regulation to ships.

d. If the issue is a result of contractor actions aboard ship, a representative of the contractor shall accompany the inspector and ship representative.

e. If practical, the ship shall suggest off-ship alternatives that involve similar operations or training demonstrations conducted ashore.

f. If off-ship alternatives are not practical, commanding officers shall approve inspections which do not involve access by inspectors to classified or restricted information, equipment, technology, or operations.

19-2.2.3.2 Environmental Inspector Security Clearances. If the inspector requests access to sensitive areas such as spaces containing cryptographic equipment, sonar systems, or nuclear propulsion plant spaces (NNPS) or nuclear propulsion plant information (NNPI) and the commanding officer concludes that a legitimate requirement exists for such access, he/she shall forward a message request for access to CNO (N45) with

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information copies to the fleet commander in chief (CINC) and type commander, for spaces which would involve access to classified information or N00N for NNPS/NNPI. The message shall identify the following:

a. The space to which the inspector wants access

b. The nature of the activity that the inspector wants to examine

c. The classified or restricted information, equipment, or operation to which the inspector would have access during the proposed inspection

d. The proposed alternatives which do not involve such access

e. Reasons why the inspector finds the proposed alternatives unsatisfactory

f. Security clearance information for the inspecting official(s).

The State or local inspector(s) shall be informed that the security implications of their request require consideration at Navy headquarters.

19-2.2.3.3 Environmental Inspection Dispute Resolution. If the commanding officer determines that the inspector does not have a requirement for access to the spaces or information cited above, but the inspector does not agree with that determination, the commanding officer shall promptly refer the matter up the chain of command for resolution by CNO (N45/N00N) as described above.

19-2.2.4 Notices of Violations. Ships shall comply with the provisions of Appendix C of this instruction regarding notices of violation or other expressions of environmental regulatory concern.

19-2.2.5 Afloat Environmental Compliance Inspections

a. The afloat environmental compliance inspection process shall consist of three tiers. These are:

(1) Annual Self-evaluation. Each afloat command shall accomplish a self evaluation of environmental compliance procedures, practices, and training on an annual basis. The Afloat Environmental Checklist of Appendix K is provided to assist the commanding officer in the performance of this evaluation.

(2) Immediate Superior in Command (ISIC) Evaluation. The ISIC shall conduct or assist in the conduct of environmental compliance inspections of subordinate commands. The Afloat Environmental Checklist of Appendix K shall be used in the conduct of this evaluation. These evaluations should normally be conducted in conjunction with or at the periodicity of the Command Inspection Program.

(3) Oversight Inspection by the Board of Inspection and Survey (INSURV). INSURV shall conduct environmental compliance oversight inspections for forces afloat as a part of the regular INSURV inspection process. These inspections shall include equipment operation, program compliance, and training. The status of afloat environmental compliance and issues requiring CNO attention shall be reported as a part of the periodic briefing to the CNO.

19-2.2.6 Training

a. All hands shall receive environmental training upon reporting aboard (I Division or School of the Boat) and annually thereafter. This training shall include:

(1) The Navy's commitment to environmental protection

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(2) The command environmental program. This training should include pollution prevention, solid waste handling and minimization, plastics management, recycling, air pollution (including ozone depleting substances (ODSs)) and oil and hazardous substance spill response.

(3) The member's responsibility with regard to this program.

This training may be accomplished through the use of videotapes for general subject matter, and by ship's instructors for command specific topics.

b. Watch officers responsible for authorizing the overboard disposal of shipboard wastes shall receive training on the prohibited zones for the discharge of shipboard wastes as a part of the qualification for the watch.

19-2.2.7 Vessel Permitting

a. Per regulation issued by the U.S. Environmental Protection Agency (EPA), discharges incidental to the normal operation of a vessel do not require a permit under the National Pollutant Discharge Elimination Permit (NPDES) program. The following are regarded as "incidental discharges:"

(1) Effluent from properly functioning oil-water separators

(2) Sewage (when discharge is necessary)

(3) Graywater

(4) Cooling water

(5) Boiler and steam generator blowdown

(6) Weather deck runoff, including fresh water washdowns

(7) Ballast water.

Naval vessels shall not enter into agreements with environmental agencies regarding ship discharges without CNO (N45) approval.

b. To promote uniformity in treatment of naval vessel discharges nationwide, CNO (N45) and fleet commanders closely monitor local attempts to impose requirements on ships beyond those specifically provided for by U.S. law or U.S. EPA regulation. Interest expressed by environmental regulators in discharges from U.S. Navy ships or MSC public vessels shall be reported by message to CNO (N45) and the chain of command.

19-2.2.8 Operation Within Foreign Nation Waters. Navy ships present within the territory of foreign countries (internal waters, ports, and seas out to 12 nm from land) are not legally subject to enforcement of environmental requirements by coastal or port States. When operating in foreign territorial waters, or when visiting foreign ports, Navy ships shall abide by environmental provisions contained in port visit clearances and/or in status of forces agreements (SOFA) (see Figure 19.1). Such conditions will normally be communicated to visiting ships in the Port Guide or the Logistics Request (LOGREQ) reply. These conditions have been agreed to in advance by the U.S. Government; Navy ship compliance with such requirements is in no way an inappropriate relinquishment of U.S. sovereignty. When port visit clearances and SOFAs either do not exist, or do not provide sufficient guidance, Navy ships should attempt to abide by the corresponding requirement for U.S. navigable waters or ports, as delineated in this chapter. In some cases, compliance with the corresponding U.S. requirement will not be feasible overseas, due to lack of offload facilities, environmental services, or some other cause. Where compliance with U.S. requirements is not feasible, Navy ships

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SUMMARY OF NAVY POLLUTION CONTROL DISCHARGE RESTRICTIONS
(Effective Until 31 December 1998)

AREA	SEWAGE ("BLACK WATER")	GRAYWATER	OILY WASTE
U.S. Internal Waters & Territorial Seas (0-3 nm)	No discharge.	If equipped to collect graywater in CHT system, collect and pump to shore when pierside. If no collection capability exists, direct discharge permitted.	No sheen. If equipped with OCM, discharge <15 ppm oil. (1)
U.S. Contiguous Zone (3-12 nm)	Direct discharge permitted.	Direct discharge permitted.	No sheen. If equipped with OCM, discharge <15 ppm oil.(1)
12-25 nm	Direct discharge permitted.	Direct discharge permitted.	If equipped with OCM, discharge <15 ppm oil. Ships with OWS but no OCM must process all machinery space bilge water through OWS. (2) (3)
>25 nm	Direct discharge permitted.	Direct discharge permitted.	Same as 12-25 nm. (2) (3)
>50 nm & High Seas	Direct discharge permitted.	Direct discharge permitted.	Same as 12-25 nm. (2) (3)
MARPOL "Special Areas" In Effect	Direct discharge permitted.	Direct discharge permitted.	Refrain from discharging any oil or oily waste to the extent practicable without endangering ship or impairing operations. Otherwise, same as 12-25 nm. (2) (3)
Foreign Countries	Within foreign territorial seas (12 nm), see Visit Clearance or SOFA (as delineated in the Port Guide or LOGREQ reply). If sufficient guidance not available, no discharges within 3 nm when sewage reception facilities available. If not feasible, follow standards observed by host nation warships.	Within foreign territorial seas (12 nm), see Visit Clearance or SOFA (as delineated in the Port Guide or LOGREQ reply). If sufficient guidance not available, follow guidance above. If not feasible, follow standards observed by host nation warships.	Within foreign territorial seas (12 nm), see Visit Clearance or SOFA (as delineated in the Port Guide or LOGREQ reply). If sufficient guidance not available, follow guidance above. If not feasible, follow standards observed by host nation warships. (3)
Comments	Direct discharge allowed within 3 nm under emergency conditions.		State/local rules may vary; check SOPA regulations. Submarines: Direct oily waste to WOCT; when full and >50 nm, pump off bottom water phase.

Notes:

OWS - Oil-Water Separator
OCM - Oil Content Monitor
WOCT - Waste Oil Collecting Tank
SOPA - Senior Officer Present Afloat

(1) If operating properly, OWS discharge will routinely be less than 15 ppm.
(2) Ships without OWS systems must retain oily waste for shore disposal. If operating conditions require at-sea disposal, minimal discharge is permitted beyond 50 nm from nearest land.
(3) If equipped with OWS and OCM and operating conditions prevent achieving less than 15 ppm, limit discharges to less than 100 ppm.

Figure 19.1

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SUMMARY OF NAVY POLLUTION CONTROL DISCHARGE RESTRICTIONS (Continued)
(Effective Until 31 December 1998)

AREA	GARBAGE (NON-PLASTICS)	GARBAGE (PLASTICS) (NON-FOOD CONTAMINATED)	GARBAGE (PLASTICS) (FOOD-CONTAMINATED)
U.S. Internal Waters & Territorial Seas (0-3 nm)	No discharge.	No discharge.	No discharge.
U.S. Contiguous Zone (3-25 nm)	Pulped or comminuted garbage may be discharged. Submarines see note (4)	No discharge.	No discharge.
>25 nm	Direct discharge permitted.	No discharge.	No discharge.
>50 nm & High Seas	Direct discharge permitted.	Retain last 20 days before return to port. Discharge if necessary.	Retain last 3 days before return to port. Discharge if necessary.
MARPOL "Special Areas" In Effect	Discharge food waste >12 nm. Minimize all other garbage discharges. When necessary, discharge all other garbage >25 nm. **Report all non-food garbage discharges to CNO (N45) upon completion of operations.**	Retain last 20 days before return to port. Discharge if necessary >50 nm. Report all discharges to CNO (N45) upon completion of operations.	Retain last 3 days before return to port. Discharge if necessary >50 nm. **Report all discharges to CNO (N45) upon completion of operations.**
Foreign Countries	Discharge food waste >12 nm from foreign coasts. Discharge all other garbage >25 nm.	No discharge.	No discharge
Comments	Garbage discharged should be processed to eliminate floating marine debris. Retain surplus material for shore disposal.	Record-keeping requirements exist for at-sea discharge. When plastics processor installed: No discharge.	Record-keeping requirements exist for at-sea discharge. When plastics processor installed: No discharge.

Notes:

(4) Submarines may discharge compacted, sinkable garbage between 12 nm and 25 nm, provided that the depth of the water is greater than 1,000 fathoms.

Figure 19.1 (Continued)

SUMMARY OF NAVY POLLUTION CONTROL DISCHARGE RESTRICTIONS (Continued)
(Effective Until 31 December 1998)

AREA	HAZARDOUS MATERIALS	MEDICAL WASTES (INFECTIOUS & SHARPS)
U.S. Internal Waters & Territorial Seas (0-3 nm)	No discharge.	Steam sterilize, store, and transfer ashore. No discharges.
U.S. Contiguous Zone (3-12 nm)	No discharge.	Steam sterilize, store, and transfer ashore. No discharges.
12-25 nm	No discharge.	Steam sterilize, store, and transfer ashore. No discharges.
>25 nm	No discharge.	Steam sterilize, store, and transfer ashore. No discharges.
>50 nm & High Seas	No discharge. >200 nm: See OPNAVINST 5100.19C, Appendix B3-C, for HM discharge guidance.	If health and safety are threatened, steam sterilize waste, package and weight for negative buoyancy, log, and discharge. No discharge of sharps permitted.
MARPOL "Special Areas" In Effect	No discharge	Steam sterilize, store, and transfer ashore. No discharges. If >50 nm and health and safety are threatened, steam sterilize waste, package and weight for negative buoyancy, log, and discharge. No discharge of sharps permitted.
Foreign Countries	No discharge	The packaging, handling, storage, transport, treatment, and disposal of infectious waste shall be as prescribed by applicable visit clearance, SOPA regulations, and port guides
Comments		Dispose of all sharps ashore. Do not incinerate plastic, wet materials. Steam sterilization requirement not applicable to submarines. Other non-infectious waste may be disposed of as garbage and does not require steam sterilization.

Figure 19.1 (Continued)

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should operate in a manner consistent the environmental practices of host nation warships.

19-2.2.9 Prohibited Discharge Zones for U.S. Navy Shipboard Wastes. Table 19.1 provides a summary of pollution control discharge restrictions for ships.

19-3 Sewage

19-3.1 Legislation. The Clean Water Act (CWA) authorizes DoD to promulgate regulations governing the design, construction, installation, and operation of any marine sanitation device (MSD) on board vessels owned and operated by the DoD.

19-3.2 Terms and Definitions

19-3.2.1 Graywater. Discarded water from deck drains, lavatories, showers, dishwashers, laundries, and garbage grinders, as well as discarded water from shipboard medical facilities. Does not include industrial wastes, infectious wastes, and human body wastes.

19-3.2.2 Industrial Wastewater. Wastewater or semi-solid material generated in shipboard processes such as manufacturing, production, and maintenance (for example, metal plating, acid cleaning, photo processing, solvent cleaning, and painting materials).

19-3.2.3 Marine Sanitation Devices. Any equipment on board a ship or craft which is designed to receive and treat sewage to a level acceptable for overboard discharge, or which receives or retains sewage on board for later discharge ashore or in waters where discharge is permissible. Within the generic term "MSD," the Navy uses the following terms to identify its general types:

a. **Type I:** "Flow-through" and "discharge" device designed to receive and treat sewage aboard ship and produce an overboard effluent with a fecal coliform count of not more than 1,000 per 100 milliliters and no visible floating solids.

b. **Type II:** "Flow-through" and "discharge" device that produces an overboard effluent with a fecal coliform count of not more than 200 per 100 milliliters and total suspended solids of not more than 150 milligrams per liter.

c. **Type III-A:** "Non-flow-through" device designed to collect shipboard sewage by means of vacuum or other reduced-flush systems and to hold the sewage while transiting navigable waters (0-3 nm). This type may include equipment for shipboard evaporation or incineration of collected sewage.

d. **Type III-B:** Collection, holding, and transfer (CHT) system designed to collect both sewage and graywater while in port; to offload sewage and graywater to suitable shore receiving facilities; to hold sewage while transiting within 0-3 nm; and to discharge both sewage and graywater overboard while operating beyond 3 nm.

19-3.2.4 Sewage. Human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes.

19-3.3 Requirements. Reference (b) issues regulations governing the design, construction, installation, and operation of MSDs aboard Navy ships to prevent the discharge of untreated sewage within 0-3 nm.

19.3.4 Navy Policy

19-3.4.1 Compliance with Regulations. To ensure compliance with regulations regarding sewage and graywater:

a. Navy ships shall be equipped with MSDs designed to prevent the discharge of untreated or inadequately treated sewage, or of any waste deri-

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ved from sewage (i.e., sludge), within 0-3 nm of the U.S. Ships unable to collect and transfer graywater to shore while pierside shall be equipped to do so as soon as possible.

b. All new ships, except where specifically excluded by Top Level Requirements, shall be equipped only with Type III MSDs certified by COMNAVSEASYSCOM. Type III-A MSDs shall have an auxiliary system capable of collecting and transferring to shore all shipboard graywater generated while pierside.

c. Existing ships equipped with Type I or Type II MSDs that were installed on or before 1 April 1979 are in compliance so long as the device remains satisfactorily operable.

d. Existing ships with installed toilet facilities, but not equipped with Type I or Type II MSDs installed prior to 1 April 1979 shall be equipped with Type III MSDs certified by COMNAVSEASYSCOM per reference (b). Type I or Type II MSDs that become inoperable and require removal shall be replaced with certified Type III MSDs.

e. MSD installations shall include the capability for pumping collected sewage and wastewater to appropriate shoreside reception facilities. Surface ships, submarines, and service craft/boats shall be fitted with cam-lock sewage discharge connections in 4-inch (MS 27025-18), 2-1/2-inch (MS 27025-14), and 1-1/2-inch (MS 27025-10) sizes, respectively. Such fittings shall allow quick connect/disconnect with shoreside offloading hoses.

f. Navy ships visiting foreign ports shall be equipped with adapters to accommodate hoses having international-standard flanges specified by the International Maritime Organization in Annex IV, Regulation 11 of the International Convention on the Prevention of Pollution from Ships (MARPOL). Specifications for such adapters are provided in Figure 19.2.

g. Industrial wastewater shall not be disposed of through ships sewage or graywater systems. Following use, shipboard industrial wastewater shall be delivered to a shore activity for processing to determine if it has further use and, if not, disposal as a waste.

Figure 19.2

Standard Dimensions of Flanges for Discharge Connections

Description	Dimension
Outside diameter	210mm
Inner diameter (1)	According to pipe outside diameter
Bolt circle diameter	170mm
Slots in flange	4 holes 18 mm in diameter equidistantly placed on a bolt circle of the above diameter, slotted to the flange periphery. The slot width to be 18 mm.
Flange thickness	16 mm
Bolts and nuts: quantity and diameter	4, each of 16 mm in diameter and of suitable length

The flange is designed to accept pipes up to a maximum internal diameter of 100 mm and shall be of steel or other equivalent material having a flat face. This flange, together with a suitable gasket, shall be suitable for a service pressure of 6 kg/cm^2.

(1) For ships having a molded depth of 5 m or less, the inner diameter of the discharge connection may be 38 mm.

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19-3.4.2 Shipboard Procedures. The following operating procedures shall be followed in operating MSDs:

a. MSDs installed aboard Navy ships shall be properly operated and maintained so as to prevent the overboard discharge of untreated or inadequately treated sewage, or of any waste derived from sewage (i.e., sludge), within 0-3 nm of the U.S. shore.

b. MSDs aboard Navy ships shall collect only sewage while present within 3 nm of shore. The collection of graywater would significantly reduce tank holding capacity and might result in the unnecessary overboard discharge of sewage before reaching pier facilities or unrestricted waters.

c. If equipped, ships shall collect graywater in installed MSDs while in port. If not equipped to collect graywater, graywater may be discharged directly overboard in port.

d. When in port, Navy ships equipped with Type III-A and Type III-B MSDs shall collect all shipboard sewage and graywater for transfer to proper shoreside reception facilities.

e. Navy ships shall not discharge any treated or untreated sewage into freshwater lakes (excluding the Great Lakes), freshwater reservoirs or other freshwater impoundments, or into rivers capable of interstate navigation. Navy ships that operate in such waters shall be modified to preclude accidental discharge into such waters.

f. While operating beyond 3 nm from shore, Navy ships may discharge all sewage and graywater directly overboard.

g. Used solvents or other industrial wastes shall not be piped to MSDs or dumped down sinks or deck drains. Used solvents and industrial wastes shall be packaged for disposal ashore.

19-3.4.3 Ship-to-Shore Transfer. The following procedures shall be followed by Navy ships in port:

a. While visiting Navy ports, Navy ships shall periodically pump their collected sewage and graywater to shoreside reception facilities. The shore activity shall provide the transfer hoses and associated fittings to connect the ship discharge line with the shore equipment.

b. While visiting non-Navy ports, Navy ships shall request sewage reception facilities in LOGREQs or other pertinent documentation. Pier sewers shall be used when available. If the sewers are not available, other sewage collection facilities such as barges or tank trucks shall be used unless it is impractical to do so.

19-3.4.4 Exceptions. Reference (b) permits Navy ships to discharge minimal quantities of sewage within 0-3 nm of shore, only under certain circumstances and with due consideration for environmental effects. Because certain State or local water quality authorities may require notification of sewage or graywater discharges from ships, reporting requirements shall be coordinated through fleet and port environmental coordinators. The following are the only conditions under which sewage may be discharged overboard within 3 nm of shore:

a. The ship's transit time through 0-3 nm from shore is of such duration that holding capacity is exceeded. Any necessary sewage discharge shall be minimized and shall be accomplished as far as possible from land.

b. The ship is conducting or participating in military operations or exercises (including training or readiness evolutions) within 0-3 nm from shore, and operational effectiveness of the mission would be impaired by terminating operations for sewage offload pierside or beyond 3 nm from shore.

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c. The ship is anchored or moored where sewage reception facilities or services are not reasonably available, or where use of such services or facilities is not feasible because of foul weather, poor visibility, or unsafe environmental conditions, and where on board retention of sewage is not practicable.

d. The ship's MSD is inoperable because of equipment malfunction or maintenance, its use would interfere with an overhaul or repair effort, or its use would pose a hazard to the health or welfare of the crew. Those periods prompting use of this exemption shall be held to an absolute minimum.

Any underway discharge of sewage under this section shall be made as far as possible from shore. If in port, the ship shall obtain the concurrence of the shore activity environmental manager prior to the overboard discharge of sewage.

19-3.5 Training. Personnel who operate or maintain sewage disposal or transfer equipment shall be trained on the proper procedures for sewage disposal, including hookup and transfer of sewage to shore facilities. This training shall include the environmental restrictions placed on the transfer of sewage and sewage spill contingency planning. Operating personnel shall also be trained on liquid effluent discharge restrictions and requirements that pertain, including the relationship between national and State requirements. This training shall be accomplished prior to personnel being allowed to operate and maintain such systems.

19-4 Air

19-4.1 Legislation. The Clean Air Act (CAA) authorizes State and local governments to set standards for emissions of air pollutants. Federal agencies are required to comply with Federal, State, interstate, and local air pollution requirements. Although most air pollution regulations address shoreside sources, Navy ships operating within U.S. and State waters are also subject to regulation.

19-4.2 Navy Policy

19-4.2.1 Compliance with Regulations. Navy ships shall comply with applicable Federal, State, and local regulations governing air pollution emissions.

19-4.2.2 Shipboard Procedures. Ships shall operate per the following procedures:

a. Navy ships at pierside shall implement operation and maintenance procedures to prevent stack emissions in violation of State and local regulations. Specifically, Navy ships shall comply with regulations on the opacity of smoke during normal operation of boilers and special periods, such as lighting off, securing, baking out, or testing of boilers.

b. In port, Navy ships shall minimize operation of boilers and diesel engines by using shore-provided "hotel" services whenever operational requirements permit. Blowing of boiler tubes in port shall be limited to the minimum necessary to conform with provisions of reference (f) Chapter 221.

c. Only approved solvents, paints, fuels, lubricants, and chemicals shall be used aboard ship. A list of materials prohibited on ships is included in reference (c). HM approved for use aboard ship may be found in the Ships Hazardous Material List (SHML). For submarines, additional restrictions may be placed on solvents, paints, fuels, lubricants, and other chemicals by the Nuclear Powered Submarine Atmosphere Control Manual (S-9510-AB-ATM-010/(U)).

d. Shipboard emergency asbestos ripout or removal shall not be performed by ship's force within U.S. territorial waters. See reference e,

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Chapter B1 for guidance. Any asbestos material removed during shipboard emergency ripouts or repair actions performed by ship's force at sea shall be properly containerized and disposed of without release of asbestos fibers into the environment (see reference (e), Chapter B1). In preparation for disposal ashore, asbestos residue must be adequately wetted prior to double bagging in heavy-duty (6 mil thickness) plastic bags or other suitable impermeable containers. All bags or containers shall be provided with standard asbestos danger labels. Removal by Navy shore facilities or contractors shall be governed by applicable laws and regulations and contract requirements.

e. ODSs shall be recovered prior to maintenance performed on air conditioning and refrigeration systems and on fire protection systems using halons wherever possible. Only maintenance personnel trained in minimizing loss of ODS shall perform maintenance on equipment containing such substances. Where such procedures have been established, maintenance personnel shall use only approved procedures for minimizing loss of ODS, regardless of where the ship may be located.

f. The use of ODS-containing solvents for shipboard equipment and facility maintenance shall be restricted to those procedures specifically authorized.

19-4.2.3 Training

a. Personnel whose watch duties may result in air pollution (for example, diesel engine operators, boilermen, or gas turbine operators) shall be trained in the minimization of air pollution as a part of the watch qualification.

b. Personnel whose task assignments may result in air pollution (for example, ship painting or the use of volatile solvents) shall be trained on the proper use of the material prior to performing the task to minimize the release of pollutants.

c. Personnel who perform maintenance on air conditioning and refrigeration equipment shall be certified on handling, recovery, and recycling of ODSs, and shall receive training on ODS regulations as well as spent/recyclable ODS labeling prior to performing these duties.

d. Personnel who are required to work with other ODSs (e.g., halons and solvents) shall be trained on methods of preventing release prior to being assigned to such work.

19-5 Oil and Oily Waste

19-5.1 International Convention and Legislation

19-5.1.1 Annex I of MARPOL addresses oil pollution from ships at sea. Annex I establishes "special areas" in which all discharge of oil from oil tankers and other ships in excess of 400 gross tons is prohibited. Annex I special areas include the Mediterranean Sea, the Baltic Sea, the Black Sea and the Antarctic area. Annex I limits the oil content of discharges from ships into all other ocean areas of the world at 15 ppm. Annex I requirements do not apply strictly to warships, but party states (including the U.S.) are required to establish standards for their warships that require such vessels to conform as closely as practicable with the international standard, without compromising operational effectiveness.

19-5.1.2 The Act to Prevent Pollution from Ships (APPS) implements the stringent oil and oily waste discharge requirements of Annex I of MARPOL. Although public vessels are not strictly subject to MARPOL Annex I, the Act requires heads of Federal departments to prescribe standards for ships under their authority that are consistent with those of the MARPOL Protocol "so far as it is reasonable and practicable without impairing the operations or operational capabilities of such ships." APPS applies to U.S. vessels world wide.

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19-5.1.3 The Clean Water Act prohibits the discharge of oil in a harmful quantity into all waters within 12 nm of the U.S. coast. U.S. EPA regulation provides that a discharge of oil in a harmful quantity is one that violates applicable water quality standards or causes a sheen on the water. The oil content within a discharge that is sufficient to cause a sheen varies with type of oil, sea state, lighting, and viewing angle. In general, 15 to 20 ppm of oil is sufficient to cause a sheen.

19-5.2 Terms and Definitions

19-5.2.1 Oil. Any petroleum-based fluid or semi-solid. Oil includes crude oil, all liquid fuels (gasoline, kerosene, diesel, and all light and heavy fuel oils), lube oil, all waste oils, oil sludge, and oil refuse. Oil also includes synthetic-based lubricating and transmission products.

19-5.2.2 Oily Waste. Oil mixed with water or other fluids such that the mixture is no longer useful.

19-5.2.3 Reclamation. The processing of used oil to recover useful oil products.

19-5.2.4 Sheen. An iridescent appearance on the surface of the water.

19-5.2.5 Used Oil. Oil whose characteristics have changed since being originally refined but which may be suitable for future use and is economically reclaimable. Used oil excludes synthetic-based lubricating and transmission products.

19-5.2.6 Waste Oil. Oil whose characteristics have changed markedly since being originally refined and has become unsuitable for further use, and is not considered economically recyclable.

19-5.3 Requirements. Reference (c) implements the Act to Prevent Pollution From Ships by prescribing oil pollution prevention requirements for DoD ships. The directive limits the oil content of ship discharges to less than 20 ppm within 12 nm of the nearest land and to less than 100 ppm beyond 12 nm.

19-5.4 Navy Policy

19-5.4.1 Clean Water Act Compliance. In compliance with the Clean Water Act, no discharge that produces a sheen is permitted within the territorial sea and contiguous zone of the U.S.

19-5.4.2 APPS and DoD Directive 6050.15 Compliance. Ships operating in MARPOL Annex I special areas (Mediterranean Sea, Black Sea, Baltic Sea, and the Antarctic area) shall refrain from discharging any oil or oily waste to the extent practicable without endangering the ship or impairing its operations or operational effectiveness. Oil and oily waste discharges that are necessary in Annex I special areas or elsewhere on the high seas shall comply with the requirements listed below.

a. Surface Ships With Oil-water Separators (OWSs) and Oil Content Monitors (OCMs). Although reference (c) allows oil discharges of up to 20 ppm and 100 ppm of oil within and beyond 12 nm from shore, respectively, Navy ships equipped with OWS and OCM shall attempt to limit oil and oily discharges to 15 ppm of oil world wide. OWS systems will routinely produce an output of less than 15 ppm if operating properly and if the oily waste does not contain detergents or emulsifying agents or solid waste which could clog the separator plates.

b. Surface Ships With OWSs but Without OCMs. Process all machinery space bilge water through an OWS system before discharge.

c. Surface Ships Without an OWS System but With an Oily Waste Holding Tank (OWHT). Direct all oily bilge water to the OWHT for shore disposal when practicable.

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d. **Surface Ships With Neither an OWS System or OWHT.** Retain all oily bilge water for shore disposal, when possible. Discharges are permitted beyond 50 nm from the nearest land if operating conditions are such that oily bilge water discharge must be disposed of at sea. Such discharges of oily bilge water shall take place only while the ship is underway.

e. **Submarines.** Pump all oily waste to the waste oil collection tank (WOCT). When the tank is full, after allowing for adequate separation time, and the ship is outside 50 nm, submarines shall pump the bottom, water phase of the WOCT overboard. Submarines' written procedures shall ensure that the upper, oily phase is not pumped, except to a shore collection facility.

19-5.4.3 Shipboard Equipment. Equipment requirements for oilers and oil tankers differ slightly from those for other ships; refer to reference (c) for more detailed information. The following equipment/systems shall be installed on Navy ships to allow proper segregation and collection of shipboard waste oil:

a. OWSs, OCMs, OWHTs, and waste/used oil tanks to allow adequate processing of shipboard oily waste prior to its discharge overboard and to allow proper segregation and collection of shipboard waste oil

b. Bilge pumps (oily waste transfer pumps), piping risers, and weather-deck connections to allow safe and convenient ship-to-shore transfer of oily waste

c. Cam-lock discharge connections 2-1/2-inch (MS 27023-14) for waste oil/oily waste discharge to allow quick connect/disconnect with shoreside offloading hoses

d. Oily waste/waste oil discharge adapters to accommodate hoses with standard International Maritime Organization (IMO) flanges as specified in enclosure (5) of reference (c) for use by Navy ships visiting foreign or non-Navy ports

e. Mechanical seals on appropriate shipboard pumps in order to minimize the quantity of oily wastewater collected in ship bilges

f. Improved tank level indicators in order to reduce the potential for overboard spills during fueling and oil and oily waste handling and transfer operations

g. Contaminated fuel settling tanks to receive and assist reclamation of fuel tank strippings that might otherwise be discharged overboard

h. Oil water interface detectors, cargo tank cleaning systems, and where appropriate, segregated ballast tanks on oilers and oil tankers.

All oil pollution abatement equipment/systems shall be inspected prior to the issuance of a user's certificate to verify proper installation and operation per the procedures detailed in reference (c).

19-5.4.4 Operational and Management Requirements. Shipboard operational and management requirements for oil, oily waste, and shipboard oil pollution abatement are described in the following paragraphs. Detailed procedural instructions implementing these requirements are provided in reference (f) Chapter 593, Section 3.

a. **Bilge Water and Oily Wastes**

(1) Oil contamination of ship's bilge water shall be reduced to a minimum. Mechanical seals in oil and water pumps and proper segregation of oily and non-oily wastewater will greatly reduce the generation of oily waste.

(2) To enable OWSs to perform more effectively, bilge cleaners or chemical agents that promote chemical emulsion (i.e., detergents and

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surfactants) shall not be used. Short-lived detergents are recommended for bilge cleaning.

(3) In port, oily waste that contains chemical emulsion agents shall be offloaded to shore receiving facilities. Shoreside donuts (oil disposal rafts) shall not be used to receive such waste.

(4) While in port, ships shall dispose of oily bilge water using one or more of the following approaches:

(a) OWS system. Ships equipped with bilge water OWS and OCM systems may use them, provided the effluent does not cause a sheen nor cause a violation of any other applicable water quality standard. Consult with supporting shore facility host command for discharge requirements.

(b) Permanent shore reception facilities. Where adequate shore oil waste collection lines are provided and an OWS is not installed or operable, oily bilge wastes shall be pumped directly ashore.

(c) Oil-ship waste offload barges (SWOBs). Ships either not equipped with or having an inoperable bilge OWS systems and shore oil waste collection lines are not available shall use the SWOB system for collecting and handling oils and oily wastes. The SWOB shall be operated by the supporting shore activity per reference (i)

(5) Eductors shall not be used to dewater bilges containing oily waste, except in emergency situations when OWS systems (including OWHTs) are not available or are not of sufficient capacity to handle the immediate flow requirements. If eductors must be used, every effort shall be made to discharge beyond 12 nm from land and while the ship is underway. An engineering log entry shall be made concerning eductor use to discharge bilge waste overboard.

b. Waste/Used Oil

(1) Shipboard personnel shall make maximum use of available port facilities for disposal of all waste/used oil products prior to departing from and upon returning to port. Those facilities include SWOBs, pierside collection tanks, tank trucks, bowsers, and contaminated fuel barges.

(2) Used lube oils shall be collected, separately stored, and labeled for eventual shore reclamation. Lube oils shall not be discharged into the bilge or OWHTs or waste oil tanks.

(3) Synthetic lube oils and hydraulic oils shall also be collected separately from other used/waste oils. Ships that do not have a system dedicated to collect used synthetic oils shall use 5- or 55-gallon steel containers, properly labeled per reference (e) for eventual shore recycling. Protective clothing, as specified in MSDSs, shall be worn by all personnel handling synthetic oil.

(4) Containers (such as drums, cans, etc.) in which oil products were originally packaged shall be retained and properly labeled per reference (e) for storing and transferring oil ashore.

c. **Fuel Transfer.** Fueling, defueling, internal fuel transfer, and oil offloading operations in restricted waters shall be accomplished during normal daylight working hours, when operating schedules permit, and shall be conducted by well-trained personnel (see paragraph 19-5.5). Precautions to minimize oil spills shall include the following:

(1) Topside watches shall be maintained at all locations of possible spills and shall have a

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direct communication to fuel transfer pump stations.

(2) Check-off lists and procedures shall be established for valve alignment and transfer operations. All transfer system valves shall be double-checked.

(3) All oil transfer participants shall be qualified to perform the detailed transfer procedures.

(4) Each tank level shall be continuously monitored while it is being filled with fuel. Remote tank-level indicators shall be used as the primary method of obtaining tank levels.

(5) Prior to actual fuel transfer, transfer personnel shall inform the responsible ship's officer (commanding officer, command duty officer, or officer of the deck) and the fuel supplier that the ship is ready to commence fueling operations.

d. Fuel Tank Stripping

(1) Eductors shall not be used to strip fuel or cargo tanks.

(2) On ships equipped with fuel tank stripping systems, the strippings shall be discharged to contaminated fuel settling tanks (CFSTs) for reuse. Fuel tank strippings shall not be discharged overboard.

(3) CFSTs are intended to be used only for strippings from fuel storage and service tanks. Bilge water and waste or other wastewater shall not be discharged into CFSTs.

19-5.4.5 Exemption From Oil Waste Restrictions. Exemption from oil waste restrictions may be necessary at certain times and under certain circumstances. Instances when specific exemptions are authorized include the following:

a. While operating in waters beyond 50 nm from land, with shipboard oily waste processing equipment inoperable due to equipment malfunction, a Navy ship may discharge oily bilge water directly to the sea if the on board retention of such water poses a safety hazard. The discharge may be conducted only after a concerted effort has been expended to repair the equipment malfunction. Commanding officers shall ensure that discharges under such circumstances are minimized. The details of a discharge (nature, quantity and geographic location) shall be duly noted in the engineering log. Equipment casualties that either threaten or result in a discharge of oily water shall be reported through the Casualty Report (CASREPT) system. The initial report shall note the potential for discharge. All subsequent status reports shall report the frequency and approximate amount of actual discharges.

b. During any other situation in which a commanding officer deems that a discharge of shipboard oily wastes is required to ensure crew or ship safety, or to prevent machinery damage (e.g., oily bilge water shall not be allowed to reach levels that threaten to cause chloride contamination of shipboard condensate systems), a Navy ship may discharge such wastes to the sea. Commanding officers shall ensure that such discharges are minimized, and that details of the discharge (nature, quantity and geographic location) are duly noted in the engineering log. If such a discharge is required within 12 nm from shore, such discharge shall be treated as an oil and hazardous substance (OHS) spill.

c. While operating in waters beyond 50 nm from land, a Navy ship may discharge directly overboard oily waste from isolated spaces, such as JP-5 pump rooms, if the ship does not have the capability to collect and transfer such waste for processing through the OWS system. Such discharges shall contain only distillate (non-persistent) oils and shall result in minimal quantities of oily waste being discharged.

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19-5.6 Training. Personnel who receive, transfer, or dispose of oil products or supervise these evolutions shall be trained on the proper procedures for connecting and disconnecting systems to other ships or shore facilities, transferring of oil or oily waste, maintenance of transfer equipment (including the oil/water separator and associated equipment) and oil spill response procedures prior to performing these duties.

19-6 Hazardous Waste (HW) and Hazardous Material (HM)

19-6.1 Legislation

19-6.1.1 CWA prohibits the discharge of harmful quantities of hazardous substances (HS) into or upon U.S. waters out to 200 nm.

19-6.1.2 The Resource Conservation and Recovery Act (RCRA) regulates generation, treatment, storage and disposal or hazardous waste. RCRA provides that HW generated on public vessels shall not be subject to storage, manifest, inspection or recordkeeping requirements until such waste is transferred ashore, or transferred to another public vessel within the territorial waters of the U.S. and stored aboard that vessel for more than 90 days after the date of transfer.

19-6.1.3 Through the Toxic Substance Control Act (TSCA), Federal restrictions have been placed on the manufacture, use, labeling, and disposal of polychlorinated biphenyls (PCBs), asbestos, and asbestos-containing waste.

19-6.1.4 Federal law pertaining to national defense requires that contracts for work on board naval vessels (other than new construction) identify the type and amount of HW expected to be generated, and responsibility for the disposal. The law further provides that a Navy generator number be used for Navy-generated HW, a contractor generator number for contractor-generated HW, and both a Navy and contractor generator number for HW co-generated by the Navy and the contractor, regardless of who owns the site where the waste is generated. The law further requires Naval vessels to offload HW to the maximum extent feasible prior to arrival at a private facility.

19-6.2 Terms and Definitions

19-6.2.1 Hazardous Material. Any material that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may pose a substantial hazard to human health or the environment. In the case of ships, this includes used or excess HM.

19-6.2.2 Used or Excess Hazardous Material. HM for which there is no further, immediate use on board the ship possessing the material. Such material may ultimately be used on another ship, within the shore establishment, for a different purpose other than initially manufactured, or by commercial industry.

19-6.2.3 Hazardous Substance. HM or HW.

19-6.2.4 Hazardous Waste. A solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

a. Cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or

b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

The term solid waste includes liquid, semi-solid, or contained gaseous material.

19-6.3 Requirements. Reference (a) establishes policy and assigns responsibilities for HM pollu-

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tion prevention. It requires that HM be selected, used, and managed over its life cycle so that the DoD achieves the lowest costs required to protect human health and the environment. Additionally, State and local regulations prescribe requirements for the proper storage, packaging, labeling, transportation, and disposal of HM.

19-6.4 Navy Policy

19-6.4.1 Shipboard Procedures. The following procedures shall be followed by ships in the management of used/excess HM:

a. Navy ships shall not discharge untreated used or excess HM generated aboard the ship overboard within 200 nm of land. To the maximum extent practicable, ships shall retain used/excess HM on board for shore disposal. Detailed guidance for HM discharges is provided in reference (c).

b. Under no circumstances may used/excess HM be collected from other ships or HW from shore facilities and transported to sea for the purpose of disposal.

c. Shipboard labeling, handling, and storing of HM shall be per reference (e), Chapters B3, C23 (surface ships), and D15 (submarines).

d. Shipboard labeling, handling, and storing of PCBs and items containing PCBs shall be per reference (f) Chapter 593, reference (g), and applicable PCB Advisories.

NOTE:

In recent years, many uses of PCBs which are not recognized or authorized by 40 CFR 761 have been discovered by the Navy. A Compliance Agreement to authorize these uses and establish the necessary controls is being negotiated with the U.S. EPA. By direction of CNO, NAVSEA is concluding this Agreement and is implementing the requirements in the form of serialized NAVSEA PCB Advisories (beginning with Advisory 93-1) (reference g). All Navy activities shall implement the requirements of the NAVSEA PCB Advisories for which they are action action addressees.

e. Used HM received from another ship within U.S. territorial waters shall be turned over to a supporting shore activity for processing within 90 days of receipt.

f. To the maximum extent practicable, all HM shall be removed from a ship before decommissioning, but in no case later than 90 days after decommissioning or removal from service. Any HW created by shipboard operations, preservation or maintenance after decommissioning shall be removed within 30 days of the time it is created.

19-6.4.2 Ship-to-Shore Transfer. Ships shall transfer used or excess HM to a shore activity for determination of disposition. If the shore activity determines that used/excess HM has no further use, it will declare the material to be waste and process the material per RCRA requirements as the generator of HW.

a. Prior to transfer ashore, used HM shall be properly segregated, containerized, and labeled per reference (e), Chapters B3, C23 (surface ships), and D15 (submarines). A container shall be filled normally with only one type of HM (i.e., all the used HM in a container shall normally be of only one stock number (except where different stock numbers are issued to specify different sized containers)). Failure to do so may result in a charge to the fleet for laboratory analyses if it is determined that the material will be disposed of as HW. If the contents of the container are unknown, the label shall so state, and the cost of

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chemical analysis to determine specific content shall be paid out of fleet accounts.

b. When visiting Navy ports, Navy ships shall request used/excess HM pickup by the cognizant shore activity representative (the Hazardous Material Offload Team (HOT) coordinated by the fleet and industrial supply center (FISC) and including the PWC). Person-to-person contact is required during the actual transfer of HM to the shore activity. Ship's force shall provide used HM in a suitable container (either the original container or one specified in reference (e), Appendix B3-D) that is properly labeled, is accompanied by an MSDS (if the material originated outside the supply system or an MSDS is unavailable in the Hazardous Material Information System (HMIS)) and a completed DD 1348-1 at the time of transfer.

c. When visiting non-Navy ports and foreign ports, Navy ships shall offload used HM only when it is necessary and feasible. The ship shall identify in the LOGREQ the types and amount of used HM to be offloaded. If unable to find adequate facilities at non-Navy ports, the ship shall hold HM for offloading at a Navy port. All HM shall be properly labeled and containerized. If offload is necessary in foreign ports, commanding officers must ensure compliance with applicable customs laws and the SOFA.

d. Prior to entering a private shipyard for an availability, ships shall:

(1) Ensure, to the maximum extent feasible, that used/excess HM is off-loaded at a Navy or other public facility.

(2) Identify to the Supervisor of Shipbuilding, Conversion, and Repair (SUPSHIP) responsible for the private shipyard a ship HM coordinator for the availability. This individual shall be given the authority and resources to ensure shipboard compliance with HM and HW management procedures and site specific management practices established by the SUPSHIP.

(3) Identify to the SUPSHIP during preavailability planning conferences the types and amounts of HW expected to be generated by ship's force during the availability.

(4) Comply with all established HW and HM management practices and those site specific procedures delineated by the SUPSHIP.

Type commanders responsible for ships in private shipyards for availabilities shall monitor ship compliance with established procedures.

19-6.4.3 Ship-to-Ship Transfers. In the event used HM is transferred within U.S. territorial waters to another ship for eventual shore processing, the receiving ship shall offload that material to a shore facility prior to 90 days. This includes the transfer to another ship (supporting tender) while in port. The procedures for transferring used HM from one ship to another at sea are contained in reference (e). For information on shore activity requirement, see Section 12-5.2.1.

19-6.4.4 Transporting Shore-Generated Hazardous Waste Aboard Ship. Navy ships shall not accept HW from shore facilities in the U.S. for transportation to another location. Navy ships may accept HW from a shore activity outside the U.S. for transportation to the U.S. or to a foreign country only when specifically tasked by competent authority. The authority shall include specific instructions on procedures to be used to ensure proper notice to the receiving authorities and compliance with applicable laws and regulations at the destination.

19-6.5 Training. Training requirements for personnel handling, storing, and disposing of HM are provided in reference (e), Chapter B3.

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19-7 Solid Waste

19-7.1 International Conventions and Legislation

19-7.1.1 MARPOL. Annex V of MARPOL addresses shipboard solid waste discharge at sea. Annex V establishes three major requirements:

a. No plastic discharges at sea world wide.

b. Outside of special areas, no solid waste may be discharged from ships within 3 nm from shore. Comminuted food waste may be discharged between 3 and 12 nm from shore. Non-floating solid waste may be discharged beyond 12 nm from shore. Floating waste may be discharged beyond 25 nm from shore.

c. Within special areas that are in effect, food waste is the only solid waste discharge authorized. Food waste may be discharged beyond 12 nm from shore. As of August 1994 three special areas are in effect internationally: the Baltic Sea, the North Sea and the Antarctic Region (south of 60 degrees south latitude).

NOTE:

MARPOL Annex V special areas and special areas that are in effect are not necessarily the same as those specified in MARPOL Annex I.

The MARPOL Convention provides that the above Annex V requirements do not strictly apply to warships. Party states (including the U.S.) are required, however, to establish standards for their warships that require such vessels to conform as closely as practicable with the international standard, without compromising operational effectiveness.

19-7.1.2 Act to Prevent Pollution from Ships (APPS). APPS, as amended by the Marine Plastic Pollution Research and Control Act of 1987 and by the National Defense Authorization Act for FY 1994 (DAA), implements MARPOL Annex V for the U.S.. APPS requires that U.S. public vessels, including warships, fully comply with MARPOL Annex V requirements by established deadlines: Surface ships must comply with the plastic discharge prohibition not later than 1 January 1999, and with the special area limitations by 1 January 2001. Once surface ships are equipped with plastic processors, surface ships must immediately comply with the plastic discharge prohibition. Submarines must comply with both the plastic discharge prohibition and the special area requirements by 1 January 2009.

19-7.1.3 Ocean Dumping Act (ODA). ODA prohibits U.S. entities from transporting material from the U.S. or from any other place for the purpose of dumping it into ocean waters, unless a permit has been obtained from the U.S. EPA. ODA does not apply to waste that is generated aboard ships while underway.

19-7.1.4 Clean Water Act. Prohibits the discharge of pollutants (including solid waste) from ships into waters of the U.S. within 3 nm from shore. (Discharge of solid waste pollutants beyond 3 nm from shore is regulated under APPS.)

19-7.1.5 Other Statutes. Various statutes authorize the U.S. Department of Agriculture (USDA) to regulate the handling of foreign food and foreign source garbage entering the U.S., via ship and aircraft. U.S. Navy ships must comply with those regulations.

19-7.2 Terms and Definitions

19-7.2.1 Foreign Source Garbage. Goods, food wastes, wrappers, containers, and disposable materials originating in any foreign country (excluding Canada) or Hawaii, Puerto Rico, U.S. Virgin Islands, American Samoa, Guam, and the Trust Territories of the Pacific Islands.

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19-7.2.2 Food Waste. Spoiled or unspoiled victual substances, such as fruits, vegetables, dairy products, meat products, food scraps, and food particles.

19-7.2.3 Garbage. For consistency with international law, this chapter adopts the MARPOL Annex V definition of garbage: All kinds of victuals and domestic and operational waste generated during the normal operation of the ship. The MARPOL term "garbage" therefore encompasses all forms of shipboard solid waste, including plastics, food waste, and dry waste such as paper, cardboard, and wood, which have traditionally been referred to as "trash."

19-7.2.4 Pulped Garbage. Pulped, ground, or comminuted garbage capable of passing through a screen with openings no greater than 25 millimeters (0.98 inch).

19-7.2.5 Plastic Processor. A device that melts, compresses, and sanitizes plastic waste so that it can be efficiently and safely stored aboard ship for shore disposal. Plastic processors are scheduled to be installed not later than 31 December 1998 in all Navy surface ships requiring them to meet the plastics discharge prohibition.

19-7.2.6 Special Area. A sea area where, for recognized technical reasons in relation to its oceanographic and ecological condition and to the particular character of its traffic, enhanced efforts are required to minimize pollution from ships. Annex V special areas are designated by the IMO, and come into effect internationally after IMO determines that littoral nations have sufficient capacity to manage the waste that would be offloaded from ships after special area status is effective. Three Annex V special areas are in effect as of August 1994: the Baltic Sea, the North Sea, and the Antarctic Area (south of 60 degrees south latitude). Other Annex V special areas that are designated but not yet in effect are: Mediterranean Sea, Black Sea, Persian Gulf, Red Sea, and Wider Caribbean Area.

19-7.3 Requirements and Navy Policy. Requirements applicable to garbage discharge at sea include both legal requirements and requirements that the Navy has adopted as a matter of policy to enhance protection of the marine environment. For ease of comprehension, the legal requirements and the requirements of Navy policy regarding shipboard solid waste discharges have been combined below.

19-7.3.1 Plastic Discharges

a. Ships shall minimize the volume of plastic material taken to sea that may become waste while at sea. Replace plastic disposable items with non- plastic items where possible. If appropriate, ships shall remove plastic wrapping and shipping materials from supply items before bringing on board. Minimize the amount of plastic supplies used.

b. When available, ships should use combat logistics force (CLF) ships to transfer non-food contaminated plastic waste ashore rather than disposing overboard. If transferring non-food contaminated plastic waste to another ship, the following practices shall be observed:

(1) The receiving ship shall be contacted to determine that space is available to accommodate the plastics wastes. No waste shall be transferred without the receiving ship's concurrence.

(2) The sending ship shall ensure that only non-food contaminated plastics are transferred. Procedures shall be developed to ensure that packages do not contain articles such as food contaminated plastics, other trash, garbage, and hazardous material.

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(3) The sending ship shall package the plastics waste in a manner to permit safe handling by both the sending and receiving ships. Securely banded triwalls are the preferred method of transferring non-food contaminated plastics wastes. If compactors are installed aboard, plastics waste should be compacted prior to packaging.

(4) The content of non-food contaminated plastic waste packages shall be clearly marked on the outside.

c. **Surface Ship Plastic Retention.** Ships shall retain food contaminated plastics on board for shore disposal during the last 3 days prior to entering port. Non-food contaminated plastics shall be retained on board for shore disposal during the last 20 days before entering port. Exceptions to the 20 day and 3-day retention requirements are allowed only when necessary for the purpose of securing the safety of the ship, the health of the ship's personnel, or saving a life at sea. Surface ship commanding officers shall personally approve any plastics discharge which does not conform to these requirements.

No discharge of plastic shall occur within 50 nm of land. Any discharge of plastic not in compliance with the 3/20 day rule shall be reported to the fleet commander per fleet reporting guidelines. Violation of the 3/20 day rule could result in Federal criminal or civil prosecution under APPS.

d. **Surface Ship Plastic Processor Utilization.** Once equipped with an operable plastic processor, surface ships are prohibited from discharging plastics at sea.

e. **Submarine Plastic Discharge Requirements.** Submarines shall limit plastics discharges to the minimum amount practicable. Buoyant garbage discharges from submarines are prohibited.

f. **Plastic Discharge Record Keeping.** Any discharge of plastic, by surface ship or submarine, shall be recorded in the ship's deck log. The log entry shall include the date, time, and location of discharge, approximate weight and cubic volume of the discharge, and nature of the material discharged.

g. **Release of Military Equipment Containing Plastic.** The 3 and 20 day plastic retention requirements apply only to disposal of plastic waste. These requirements do not apply to normal use of expendable military equipment that contains plastic, such as targets, weather balloons, sonobuoys, etc., because the plastic in these items is not considered "waste" when normal use of the items results in their release into the ocean. However, in keeping with Navy policy to protect the marine environment, expendable items that can be retrieved after use, particularly targets, should be retrieved, if safe and practicable to do so. Once collected after use, plastic components of such items should be regarded as plastic waste, and managed under the 3 and 20 day retention policy.

19-7.3.2 Non-Plastic Garbage Discharges. All references to "garbage" within this subsection refer to non-plastic garbage discharges.

a. No garbage discharges shall occur within 3 nm of any coastline.

b. Pulped garbage may be discharged beyond 3 nm of the U.S. coast. Pulped garbage may be discharged into shipboard MSDs only when a ship is docked and the MSDs are discharging to pier facilities. Garbage pulpers shall not be used within 3 nm of any U.S. coastline in order to maximize necessary sewage holding capacity and to preclude inadvertent overboard discharges of sewage.

c. Compacted or unprocessed garbage may be discharged beyond 25 nm from the U.S. coast-

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line. Surface ships shall use available means to cause unprocessed garbage to sink as rapidly as possible.

d. Submarines may discharge compacted, sinkable garbage between 12 nm and 25 nm, provided that the depth of the water is greater than 1,000 fathoms.

e. Surface ships equipped with incinerators may use them when operating beyond 12 nm from land for the disposal of non-plastic and non-hazardous garbage only.

f. Transporting any material to sea for the purpose of dumping requires a permit from the U.S. EPA. In most cases, obtaining a permit is a complex undertaking and beyond the capability of afloat units. To ensure compliance with ODA, Navy ships are prohibited from taking on any material in port for the purpose of dumping it at sea unless permission has been obtained from CNO (N45).

g. Although the at-sea disposal of garbage by ships is permissible (as indicated above), international guidelines encourage the use of port reception facilities as the primary means of shipboard garbage disposal, whenever practical. This means that surplus materials which can reasonably and safely be stored on board, such as damaged equipment or office furniture, shall be retained aboard for shore disposal.

19-7.3.3. Special Area Discharge Reports. Under APPS, the Secretary of Defense is required to report annually in the Federal Register on the amount and nature of discharges in special areas in-effect in which the discharge did not meet Annex V limitations. Accordingly, upon completion of operations in special areas in-effect, Navy ships shall report the following information to CNO (N45) and the chain of command regarding all discharges *other than food waste* made into the in-effect special area:

a. Date of discharge

b. Special area involved

c. Nature and amount of discharge (estimated pounds of plastic, metal, wood paper, glass, ceramic or other non-food material).

Negative reports are required.

19-7.3.4 Foreign Food and Garbage

a. Navy ships shall comply with USDA regulations pertaining to the entry by ships of any foreign source garbage into the U.S., its territories, and possessions.

b. If practicable, all produce (fruits and vegetables) purchased in any foreign port should be totally consumed or disposed of beyond 25 nm from U.S. shores. If not disposed of prior to entering within 25 nm from shore, such produce shall be segregated as food wastes and dry materials (packaging, etc.) for special disposal ashore by one of the following USDA approved methods:

(1) Cooking by steam or other heat source in a leakproof container at 212°F for a period of 30 minutes and disposal of residues by burying (sanitary landfill methods).

(2) Incinerating in an incinerator approved by the EPA.

(3) Grinding and flushing through a ship's CHT system (when installed) to a USDA approved sewage system ashore.

c. The standards given above do not preclude discharge of any solid waste in an emergency when failure to do so would clearly endanger the health or safety of shipboard personnel.

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19-7.4 Training

a. Personnel responsible for handling ship's garbage shall be trained on the discharge restrictions applicable to this waste prior to assignment. Such training shall include the proper collection, treatment, and disposal of plastics waste.

b. Personnel responsible for the supervision and approval of overboard disposal of solid waste shall be trained on the legal requirements applicable to this waste category.

19-8 Medical Waste

19-8.1 Legislation

19-8.1.1 U.S. Public Vessel Medical Waste Anti-Dumping Act. Prohibits public vessel dumping of medical waste into ocean waters during peacetime, except under emergency conditions.

19-8.2 Terms and Definitions

19-8.2.1 Medical Waste. Medical waste is any waste that is generated during patient diagnosis, treatment, or immunization. Medical waste may be divided into two categories, infectious waste and noninfectious waste.

19-8.3 Navy Policy

a. Infectious medical waste shall be steam sterilized, suitably packaged, and stored for disposal ashore. If retention of potentially infectious wastes would endanger the health and safety of personnel on board, create an unacceptable nuisance condition, or compromise combat readiness, overboard discharge is authorized beyond 50 nm provided such waste (excluding sharps) has been steam sterilized and packaged for negative buoyancy. Administrative records shall be maintained for instances of overboard discharge of infectious medical wastes.

b. Shipboard labeling, handling, and storage of potentially infectious medical waste shall be per reference (h).

c. After steam sterilizing, infectious paper and cloth-based medical waste may be incinerated aboard ship if this capability exists.

d. Sharps shall be collected in plastic autoclavable sharps containers. Never recap, clip, cut, bend, or otherwise mutilate needles or syringes to avoid causing accidental puncture wounds and infectious aerosols. All sharps shall be retained on board for proper disposal ashore. Unused sharps shall be disposed of ashore in the same manner as medical waste.

e. Plastic and wet materials shall not be incinerated.

f. Liquid wastes may be disposed of by discharging into the sanitary system.

g. Non-infectious waste may be disposed of as garbage and does not require steam sterilizing or special handling. In any event, if this material is disposed of at sea, it shall be weighted for negative buoyancy to ensure it will not be washed ashore.

h. The requirement to steam sterilize prior to disposal at sea does not apply to submarines.

19-8.4 Training. Personnel responsible for the processing and disposal of shipboard medical waste shall be trained to ensure that such actions comply with the requirements governing this waste.

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19-9 Oil and Hazardous Substance Spills

19-9.1 Terms and Definitions

19-9.1.1 Navy On-Scene Coordinator (NOSC). The Navy official designated to coordinate the contingency planning, and to direct Navy OHS spill/release response operations within a preassigned area. Shoreside NOSCs are normally the RECs designated by area environmental coordinators to coordinate environmental and other broad Navy shore activity issues on a regional basis (see Chapter 1). Fleet NOSCs are the numbered fleet commanders who direct all fleet operations within assigned ocean areas. See Chapter 10 for further clarification of NOSC assignment and responsibilities.

19-9.1.2 On-Scene Operation Team (OSOT). Specially trained and equipped Navy shore-based unit responsible for providing complete OHS spill containment and recovery for inland waters and harbors.

19-9.1.3 Spill. An accidental or unpermitted discharge of OHS into or upon the water. In this chapter, the definition does not apply to spills on board ship which do not go over the side.

19-9.1.4 Supervisor of Salvage (SUPSALV) Spill Response Team (SSRT). Specially trained and equipped mobile spill response team maintained by the NAVSEASYSCOM SUPSALV (NAVSEA 00C). The team and an extensive inventory of offshore spill response equipment are maintained to support NOSCs and commanding officers for offshore, salvage-related, or major inland oil spills and HS releases.

19-9.2 Policy

19-9.2.1 Designation of Fleet Navy On-Scene Coordinators. Fleet CINCs shall designate the fleet NOSCs.

19-9.2.2 Shore-Based On-Scene Operations Teams (OSOTs). OSOTs are equipped with trained personnel and specialized equipment to contain and recover OHS spilled into harbor waters. The primary function of the OSOT is to respond to port spills.

19-9.2.3 SUPSALV Spill Response Capability. SUPSALV maintains an extensive inventory of offshore spill response equipment to support predesignated NOSCs in offshore and salvage-related spill control operations. Offshore boom and skimmers, towing vessels, petroleum, oil and lubricants (POL) offloading pumps and related equipment are maintained in response centers in Williamsburg, Virginia, and Stockton, California, for rapid mobilization to spill sites worldwide. Response centers are also located in Aberdeen, Scotland; Livorno, Italy; Pearl Harbor, HI; Japan; and Singapore. Equipment operators, mechanics, and supervisory personnel deploy from Continental United States (CONUS) response centers with the equipment. SUPSALV, with headquarters in Washington, D.C., can also provide a full range of technical experts and advisors or specialty equipment from government, industry, or academic institutions.

19-9.2.4 Ship Spill Response Capability. For spills over the side, ship's personnel under the commanding officer or master shall be prepared to initiate immediate actions to mitigate the effects of the spill. For oil spills, COMNAVSEASYSCOM has developed a shipboard oil spill containment and clean-up kit for quick response first aid capability. COMNAVSEASYSCOM has also developed a similar kit for HM spill response. When response to Navy ship spills/releases is beyond the ship's limited capability, the cognizant shore commanding officer or fleet NOSC will mobilize appropriate response efforts and direct response actions. In any event, when a ship spill/release occurs, the ship's commanding officer shall immediately report the incident to the cognizant shore facility commanding officer, the

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NOSC, and to other officials per the shipboard spill/release contingency plan. To assist with contingency planning, COMNAVFACENGCOM has developed a worldwide directory ("Oil and Hazardous Substance Spill Response Activity Information Directory (AID)", Navy Energy and Environmental Support Activity (NEESA) publication 7-021C) of Navy spill/release response contacts (NOSCs, cognizant shore activity commanding officers, etc). This document is available from Naval Facility Engineering Services Center (NFESC) in Port Hueneme, CA. Spill response points of contact are also listed in the Hazardous Material Control and Management (HMC&M) Hazardous Material Information System (HMIS) on CD-ROM.

19-9.2.5 OHS Spill Response Within the U.S. Contiguous Zone. Ships shall comply with the following OHS spill response procedures when within the U.S. contiguous zone:

a. In Navy ports, the ship's commanding officer shall:

(1) Notify the shoreside NOSC/ cognizant facility commanding officer by the most expeditious means possible. For environmentally significant spills, see paragraph 19-9.2.8.

(2) Notify the National Response Center (NRC) by telephone at (800) 424-8802.

(3) Take, insofar as practical, immediate actions to mitigate the effects of the spill.

(4) Follow up by submitting a naval message. Formats for OHS spill reports are provided in Appendices I and J.

b. In non-Navy ports (and elsewhere within the contiguous zone), the ship's commanding officer shall:

(1) Notify the appropriate shoreside NOSC and cognizant shore facility commanding officer specified in the shoreside NOSC contingency plan. For environmentally significant spills, see paragraph 19-9.2.8.

(2) Notify the NRC by telephone at (800) 424-8802

(3) Take, insofar as practical, immediate actions to mitigate the effects of the spill. Rapid action on the part of the ship's crew can result in containment and collection of the spill. Shipboard personnel shall use available means to clean up minor spills before requesting assistance from shore-based personnel.

(4) Follow up by submitting a naval message. Formats for OHS spill reports are provided in Appendices I and J.

19-9.2.6 OHS Spill Response Outside the U.S. Contiguous Zone as Defined in Governing Contingency Plans. For OHS spills in these areas, ships shall:

a. Initiate immediate action to mitigate the effects of the spill

b. Notify the predesignated fleet NOSC by naval message using the format in Appendix I for oil and Appendix J for HS. For information on environmentally significant spills, see paragraph 19-9.2.8.

The fleet NOSC shall implement fleet Spill Contingency Plans (SCPs).

19-9.2.7 OHS Spill Response in Waters of Foreign Countries. The following action shall be taken for an OHS spill in these waters:

a. The ship's commanding officer shall initiate immediate action to mitigate the effects of the spill.

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b. The ship's commanding officer shall immediately notify the predesignated fleet NOSC and/or shoreside NOSC as defined in governing contingency plans by naval message. Formats for OHS spill/release messages are found in Appendices H and I.

c. The fleet and shoreside NOSC shall implement appropriate SCPs.

19-9.2.8 Environmentally Significant Spills. For spills anywhere resulting from catastrophic events, causing significant adverse public reaction, or subject to geopolitical implications or other causes warranting OPREP-3 special incident reports per reference (d), initial reporting shall be made by the OPREP-3 system. Following the OPREP-3 report, an amplifying report in the format prescribed in Appendix H (for oil) or Appendix I (for HS) shall be forwarded by the cognizant fleet or shoreside NOSC.

19-9.2.9 Fleet Spill Contingency Plans. Fleet CINCs shall prepare fleet OHS SCPs for spills that occur outside the U.S. contiguous zone. Such plans shall include spills in foreign waters and ports. COMNAVSEASYSCOM shall provide assistance to Fleet CINCs in preparation of the plans.

19-9.2.10 Shipboard Spill Contingency Plans (SCPs). Each Navy ship shall develop an oil SCP and an HS SCP per guidelines provided by COMNAVSEASYSCOM. The HS SCP may be prepared alone or in conjunction with the oil SCP. The plan(s) shall contain procedures for reporting, containment, control, recovery, and disposal of spills, protective clothing, spill clean-up materials, information sources for oil and HS, and names and telephone numbers of fleet as well as shoreside NOSCs. Shipboard plans and updates thereto shall be provided to the NOSC having responsibility over the ship's homeport. Although neither Coast Guard nor State officials have authority to require preparation of public vessel OHS SCP, Navy ship OHS SCPs shall be provided to Coast Guard and State officials upon request.

19-9.3 Training

a. Watch officers and other personnel assigned responsibilities as a part of the ship's OHS SCPs shall be trained on responsibilities prior to being assigned. Refresher training shall be accomplished at least annually.

b. Shipboard personnel shall be exercised in OHS spill response procedures at least once per year. Ships should consider in-port watch section as well as shipboard response as a part of this training.

19-10 Ship Ballast Water and Anchor System Sediment Control

19-10.1 Ballast Water Guidelines. The Marine Environmental Protection Committee of the International Maritime Organization (IMO) has developed guidelines for the control of ship ballast water to prevent the introduction of unwanted aquatic organisms and pathogens. The U.S. Coast Guard published these guidelines for adoption as voluntary standards to decrease the possibility of further introduction of cholera and other pathogens into U.S. waters. Since Navy ships operate worldwide, the Navy has chosen to adopt the intent of the Coast Guard standards.

19-10.2 Waters are considered to be potentially polluted in harbors, rivers, inlets, bays, landlocked waters, and the open sea within 12 miles of the entrance to these water ways. Other areas may be declared polluted by fleet surgeons or their representatives.

19-10.3 Policy

a. If it is necessary for ship safety to load ballast water within an area which is potentially polluted, i.e., amphibious ships operating in such

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waters and ballasting to operate landing craft or tankers ballasting to replace offloaded cargo, the water shall be offloaded outside of 12 miles from shore and clean sea water taken on and discharged two times prior to entry within 12 miles from shore. Loading of ballast water in potentially polluted areas and flushing of ballast tanks to rid them of possible pollutants shall be entered into the ship's engineering log. The entry shall include the geographical position and the amount of ballast water taken on.

b. For ships with sea water compensated fuel stowage systems, a record shall also be maintained for sea water intake occurring in prohibited zones during routine internal fuel transfer for propulsion plant operation.

c. Anchors, chains, and appendages shall be routinely washed down with sea water when being retrieved to prevent on board collection of sediment, mud, and silt. Following anchor retrieval, chain lockers shall also be washed down outside of 12 miles from land to flush out any sediment, mud, or silt.

19-11 Protection of Marine Mammals

19-11.1 Legislation

19-11.1.1 Marine Mammal Protection Act. Protects marine mammals by prohibiting unpermitted "taking" of marine mammals in the U.S. or on the high seas.

19-11.2 Terms and Definitions

19-11.2.1 Marine Mammal. Any mammal which is adapted to the marine environment, including sea otters, manatees, dugongs, sea cows, seals, walruses, whales, dolphins, and porpoises, or primarily inhabits the marine environment (such as polar bears).

19-11.2.2 Taking. To harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.

19-11.3 Navy Policy. Marine mammals enjoy protection under the Marine Mammal Protection Act. Therefore, no Navy vessel shall deliberately harass a marine mammal. The protection of marine mammals shall be taken into consideration during operations and planning.

19-12 Floating Drydocks

19-12.1 Terms and Definitions

19-12.1.1 Floating Drydock. A movable dock, floating in water, capable of lifting a host ship for repairs to its underwater hull.

19-12.2 Navy Policy. The following procedures shall be followed in handling solid waste from drydocks:

a. **Industrial Wastes**

(1) Spent sand, metals, wood, liquid wastes, solid wastes, and all other industrial wastes shall be periodically removed, using vacuum methods, from the floor of the drydock to shore facilities for disposal. Those wastes shall be prevented from entering the air or surrounding waters. Prior to flooding the dock, all loose materials shall be removed and all floors and chainways shall be vacuum cleaned.

(2) Floating drydocks equipped with industrial waste collection systems shall use the systems to the maximum possible extent for processing waste from hull-blasting or anti-fouling paints. If the processed water is discharged into the sewer system or directly into surface waters, it shall comply with applicable Federal, State, and local regulations. For discharges into the surface waters, it may require an NPDES permit.

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b. **Sewage and Graywater.** Where possible, all sewage and graywater from floating drydocks and host vessels shall be transferred ashore for proper disposal.

c. **Discharge Permits.** Floating drydocks may be required to obtain Federal or State Clean Water Act discharge permits. See paragraph 19-2.2.7 for details.

19-13 Noise

19-13.1 Legislation. The Noise Control Act provides for Federal performance standards, which are to be incorporated into the design of new ship systems and equipment, to reduce noise emission. Retrofit modifications are not prescribed for existing noise sources. Military aircraft, combat equipment, and weapon systems are exempt from new product design standards. Workplace noise is not considered environmental noise. Workplace noise abatement is prescribed in reference (e).

19-13.2 Navy Policy. The use of powered tools, machinery, outboard loudspeakers, or any other devices that emit excessive noise, either directly or indirectly through reradiation, shall be restricted to normal daylight working hours to the maximum possible extent.

19-14 Responsibilities

19-14.1 COMNAVSEASYSCOM shall:

a. Develop, procure, and install the necessary shipboard sewage systems, solid waste processing equipment, oil pollution abatement equipment, and associated support designed to minimize health and safety hazards and to comply with applicable standards.

b. Develop, procure, and install the necessary pollution abatement equipment and associated logistic support to allow Navy floating drydocks to operate in full compliance with guidelines and standards.

c. Establish an inspection and certification program to ensure that shipboard sewage systems are properly installed and fully operational and to ensure adequate technical documentation, spare parts support, and crew indoctrination are provided.

d. Provide engineering and technical assistance to the fleet, as required, to ensure the safe and effective operation of shipboard pollution abatement systems and equipment, the proper management of HM, and the meeting of air pollution control requirements.

e. Provide support and hardware for shipboard environmental training programs established by CNET.

f. Acquire, distribute, and install appropriate disposal and treatment systems, containers, labels, handling equipment, clean-up materials, and protective clothing to allow safe and effective control of HM aboard Navy ships. Reference (e) shall be used as guidance for proper management of HM aboard ships.

g. Initiate procurement procedures that ensure the major noise products and equipment, which are not designed for combat use, meet Federal noise emission standards.

h. Ensure that all ships are provided with the proper material support, including adequate spare parts for installed sewage systems.

i. Ensure that associated funding requirements are properly identified, budgeted, and programmed.

j. Promote research to define and study noise pollution problems unique to the Navy and

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coordinate such research with other DoD components and with EPA.

k. Identify, evaluate, and correct Navy ships' systems and equipment that are major sources of environmental noise.

l. Develop improvements to shipboard processes to reduce the use of HM and the generation of shipboard used HM.

m. Periodically assess, by means of regularly scheduled pierside surveys, the compliance status of Navy ships with respect to applicable air pollution control requirements and report all findings to commanding officers, fleet commanders, and other appropriate command levels.

n. Provide assistance and guidance to fleet and shoreside NOSCs in the preparation of oil spill and HS release contingency plans.

o. Provide general shipboard OHS SCPs to Navy ships for their use in preparation of ship specific OHS SCPs.

p. Acquire and distribute appropriate equipment and protective clothing for SUPSALV and ships' personnel use in responding to OHS spills.

q. Provide specialized equipment and trained personnel to assist NOSCs/commanding officers in responding to offshore, salvage-related, and major inland oil spill and HS release response operations.

r. Provide proper reception capabilities at NAVSEASYSCOM facilities for receipt of ship-generated oily waste and waste oil, sewage and graywater, solid waste, and used HM. Included are transfer hoses, associated fittings, and adequate tank holding capacity at each NAVSEASYSCOM facility for all visiting ships, Navy and non-Navy.

s. Ensure that operating forces are provided with adequate system documentation with particular emphasis on ensuring that the documentation contains health, sanitation, and safety guidance. Documentation shall include:

(1) Equipment technical manuals for all installed equipment/systems

(2) Maintenance Requirements Cards (MRCs) covering a comprehensive sewage system preventive maintenance program and certification criteria

(3) Sewage Disposal Operation Sequencing System (SDOSS) which consists of systematic and detailed written procedures utilizing charts, instructions, and diagrams developed for the operations of a specific ship's sewage system

(4) Reference (f) Chapter 593

(5) Shipboard Management Guide for PCBs and PCB Advisories.

t. Develop contract requirements for ship availabilities in private shipyards to process ship-generated waste in compliance with the law.

u. Apply for required HW generator numbers required to manage Navy-generated and co-generated HW at private shipyards. Manage the HW manifest program and provide annual management reports to CNO and the fleets on program cost and effectiveness.

v. Develop and issue to the fleet site specific HW management procedures for private shipyards. Provide on-site coordination from the SUPSHIP office with the identified ship HM coordinator.

w. Identify to the type commander or type commander representative any unresolved issues

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of ship noncompliance with SUPSHIP-generated procedures.

19-14.2 CNET shall:

a. Establish formal training programs on the operation, maintenance, sanitation, and safety of all shipboard sewage systems. Monitor and update training programs as required.

b. Develop shipboard indoctrination programs on sanitation, safety, and basic operation of all sewage systems. Review and revise indoctrination programs as necessary.

c. Establish formal training programs at appropriate facilities on the operation and maintenance of shipboard oil pollution abatement systems and equipment. Monitor and update training programs as required.

d. Provide shipboard indoctrination programs on oil spill control, oil reclamation, and the basic operation of all oil pollution abatement systems and equipment. Review and revise indoctrination programs as necessary.

e. Establish formal training programs on the handling, storage, treatment, disposal, and cleanup of shipboard oil and HS. Monitor and update training programs as required.

19-14.3 Commander, Naval Legal Services Command shall establish training courses on environmental compliance afloat for military lawyers assigned to afloat billets, fleet staffs and shore stations providing support to afloat units.

19-14.4 CHBUMED shall:

a. Issue guidance for shipboard medical department personnel concerning health and sanitation aspects of shipboard sewage systems.

b. Ensure that training programs for shipboard medical personnel include all aspects of health and sanitation associated with shipboard sewage systems.

c. Determine, validate, and establish health criteria and standards relating to chemical and physical environmental health standards.

d. Collect, evaluate, and disseminate data related to health problems associated with lead and zinc chromate paint removal aboard ship.

e. Perform research and evaluation in environmental medicine to determine the health impacts of Navy sources of environmental noise.

19-14.5 Fleet CINCs shall:

a. Ensure that ships under their command are properly equipped with appropriate sewage systems, air emission and oil pollution abatement equipment, solid waste treatment/disposal systems, and low-noise emission equipment.

b. Ensure that ships under their command are equipped with appropriate disposal/treatment systems, containers, labels, handling equipment, clean-up materials, spill kits, and protective clothing to allow safe and effective control of shipboard HM.

c. Provide, at Navy ports under their command, proper facilities for receipt of ship-generated solid waste, sewage and wastewater, HM, and oily waste and waste oil. Such facilities will include appropriate discharge hoses, fittings and holding capacity for wastes.

d. Provide, at Navy ports under their command, the required services for disposal of medical waste generated by support and ships, and ensure that disposal ashore complies with applicable Federal, State, and local laws or regulations, and SOFAs or international agreements.

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e. Ensure that ships operate their sewage systems; air, oil and solid waste control systems; and other pollution abatement systems per the requirements of this instruction.

f. Provide for repair and maintenance of air, oil, sewage and solid waste pollution abatement systems that are beyond the capability of ship's force to accomplish.

g. Issue operational guidelines and reporting procedures for compliance with the policies set forth in this instruction for ship-generated plastic waste.

h. Predesignate fleet NOSCs.

i. Provide the names and addresses of fleet NOSCs to fleet units.

j. Fund the cleanup of OHS spills from Navy vessels under their command.

k. Ensure that assigned Navy floating drydocks are properly equipped with appropriate pollution abatement systems and equipment.

l. Provide proper reception facilities at cognizant Navy ports for receipt of shipboard-generated industrial waste and sewage.

m. Ensure that assigned drydocks operate their pollution abatement systems per paragraph 19-12.2.

n. Provide for repair and maintenance of pollution abatement systems that are beyond the capability of assigned drydock's force to accomplish.

o. Establish procedures to ensure, to the maximum extent feasible, that used and excess HM is off-loaded at a Navy or other public facility prior to a ship's entering a private shipyard for an availability. Such procedures shall include the offloading of HM that will not be used by ship's force during the availability.

p. Ensure that ships identify a shipboard HM coordinator to the SUPSHIPs for each ship availability at a private shipyard. Ensure that this individual is given the authority and resources commensurate with the assigned responsibility to ensure shipboard compliance with HM and HW management procedures and site specific management practices established by the SUPSHIPs.

q. Ensure that ships identify, in preavailability planning conferences, the types and amounts of used HW expected to be generated by ships' force during the availabilities.

r. Direct ships to comply with all established HM and HW management practices and those site specific procedures delineated by the SUPSHIPs.

s. Ensure type commanders monitor ship compliance with established HM/HW procedures while in private shipyards.

t. Establish an environmental compliance evaluation of afloat commands by the ISIC. These evaluations shall use the Afloat Checklist of Appendix K. These evaluations should normally be conducted as a part of or at the periodicity of the Command Inspection Program.

u. Ensure that the protection of marine mammals is taken into consideration during operational planning and vessel operations.

19-14.6 COMNAVSUPSYSCOM shall implement programs for source reduction of plastics aboard ship by identifying non-plastic packaging products and non-plastic consumables for shipboard use.

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19-14.7 COMSC shall:

a. Ensure that assigned ships are properly equipped with appropriate sewage systems, air emission and oil pollution abatement equipment, solid waste treatment/disposal systems, and low-noise emission equipment.

b. Ensure that assigned ships are equipped with appropriate disposal/treatment systems, containers, labels, handling equipment, clean-up materials, spill kits, and protective clothing to allow safe and effective control of shipboard HM.

c. Ensure that assigned ships operate their sewage systems, air, oil, and solid waste control systems and other pollution abatement systems per the requirements of this instruction.

d. Provide for repair and maintenance of air, oil, sewage, and solid waste pollution abatement systems that are beyond the capability of ship's force to accomplish.

e. Issue operational guidelines and reporting procedures for compliance with the policies set forth in this instruction for ship-generated plastic waste.

f. Fund the cleanup of OHS spills from assigned Navy and contract ships.

g. Establish procedures to ensure, to the maximum extent feasible, that used HM is offloaded from assigned ships at a Navy or other public facility prior to entering a private shipyard for an availability. Such procedures shall include the offloading of HM that will not be used by ship's force during the availability.

h. Identify a shipboard HM coordinator for each assigned ship's availability at a private shipyard. Ensure that this individual is given the authority and resources commensurate with the assigned responsibility to ensure shipboard compliance with HW management procedures and site specific management practices established at the private shipyard.

i. Ensure that ships identify in preavailability planning conferences the types and amounts of HW expected to be generated by ships' force during the availabilities.

j. Direct ships to comply with all established HM and HW management practices and those site specific procedures delineated for the private shipyard.

k. Monitor ship compliance with established HM/HW procedures while in private shipyards.

19-14.8 President, Board of Inspection and Survey shall:

a. Conduct environmental compliance oversight inspection as a part of the regular ship inspection process. These inspections shall include equipment operation, program compliance, and training.

b. Ensure that assigned inspectors are trained on the requirements of this chapter.

c. Report to the CNO the status of afloat environmental compliance and issues requiring CNO attention as a part of the periodic brief.

19-14.9 Regional Environmental Coordinators shall:

a. Coordinate with the cognizant port clearance authority to ensure LOGREQ replies fully apprise arriving ships of local environmental requirements and port practices.

b. Notify the cognizant area environmental coordinator and CNO (N45) in advance when regulatory concern over arriving ship environmen-

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tal compliance is anticipated. Recommend a course of action to resolve the issue.

c. Maintain close liaison with SUPSHIP offices and naval shipyards to ensure proper resolution of environmental issues regarding ships in overhaul.

d. Report to CNO (N00N) and NAVSEASYSCOM (SEA-08) any regulatory attempt to assert authority over radioactive or nonradioactive discharges from naval nuclear propulsion plants.

e. Upon request, assist both U.S. and foreign Navy ships in resolving environmental issues, including but not limited to inspection of ships, air emissions, water discharges, oil spill planning and response, and natural resource damage assessments following oil spills.

f. Provide information on the Federal, State, and local environmental regulations which apply to ships in port. Such information shall describe necessary actions to be taken by ship commanding officers in order to comply with the requirements of this instruction and all other Federal, State, and local regulations applicable to the port.

19-14.10 Commanding officers and masters of Navy ships shall:

a. Ensure that ship's sewage systems are certified, properly operated, periodically inspected, and properly maintained, and that ship-to-shore transfers of sewage and graywater are handled in a safe and effective manner.

b. Ensure that ships are operated and maintained to conform with applicable State and local air pollution emission regulations and HM regulations.

c. Ensure that ships comply with the guidelines, standards, and procedures of this instruction.

d. Ensure that no medical materials are disposed of in a manner that poses a risk or perception of a risk to the public health and welfare or to the marine environment.

e. Ensure that shipboard personnel working with pollution control systems, oil pollution systems, HM, and sewage systems are properly trained, attend appropriate schools, and are fully aware of associated documentation.

f. Ensure that periodic inspections (at least quarterly) are conducted per reference (j) by senior medical department personnel to maintain sanitary and hygienic conditions of MSD systems and operational practices.

g. Ensure that appropriate health and sanitation precautions are posted as required by reference (e), General Specifications for Ships of the United States Navy (GENSPECS), Chapter 593 and reference (j).

h. Report, as required and established by the chain of command, sewage discharge within 0-3 nm from U.S. shores.

i. Report to the fleet commander any conditions or system/equipment malfunctions that could result in unlawful air pollutant emissions.

j. Report to the fleet commander any conditions or system/equipment malfunctions that would necessitate oily waste, HM, or solid waste discharge into waters in which discharge is restricted.

k. Ensure that the engineering log or equivalent oil record book be used to record any oily waste discharge that cause a sheen. When a sheen-producing discharge occurs, the cause

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should be determined. Record keeping shall consist of the date, time of occurrence, ship location at the beginning and end of the incident, substance discharged, quantity discharged, and the cause of the discharge.

l. Designate an officer as HM coordinator to ensure that all shipboard personnel comply with reference (e) requirements for HM handling, packaging, storing, labeling, treating, and disposal. Prior to the ship leaving port, the HM coordinator shall reconcile all HM left on the pier.

m. Predesignate one or more shipboard action officers to be responsible for shipboard spill/release contingencies planning and response.

n. Prepare shipboard OHS SCPs, and ensure these plans are coordinated with the cognizant NOSC plan. Provide these plans to Coast Guard and State officials for their information, upon request.

o. Ensure that shipboard personnel are properly trained and fully aware of applicable OHS SCPs.

p. Report OHS spills as prescribed in paragraph 19-9.2.5 through 19-9.2.8.

q. Take immediate actions to contain, control, and mitigate all spills caused by the ship.

r. Appoint an officer or petty officer to oversee drydock operations to ensure that industrial waste and sewage collection and treatment systems are properly operated and maintained, and that ship-to-shore transfers of the waste are handled in a safe and effective manner.

s. Offload used and excess HM, to the maximum extent feasible, to a Navy or other public facility prior to entering a private shipyard for an availability. Also offload HM that will not be used by ship's force during the availability prior to entering the private shipyard.

t. Identify to the SUPSHIP responsible for a private shipyard a ship HM coordinator for the availability. That individual shall be given the authority and resources to ensure shipboard compliance with HW management procedures and site specific management practices established by the SUPSHIP.

u. Identify to the SUPSHIP, in preavailability planning conferences, the types and amounts of used HW expected to be generated by ship's force during the availability.

v. Comply with all established HM and HW management practices and those site specific procedures delineated by the SUPSHIP.

w. Ensure during paint removal operations, to the maximum extent feasible, that the debris, dust, or residual materials from the paint removal operation are collected and properly packaged for disposal ashore.

x. Report to the chain of command, cognizant REC, area environmental coordinator, and CNO (N45) any regulatory request that the Navy apply for permits involving ship discharges, or implement measures regarding ship discharges beyond the requirements contained in this chapter. Agreements with environmental agencies regarding ship discharges shall not be entered into without CNO (N45) approval.

y. If it is necessary for ship safety to load ballast water within an area which is potentially polluted (i.e., amphibious ships operating in such waters and ballasting to operate landing craft or tankers ballasting to replace offloaded cargo), offload the water outside of 12 nm from shore and take on clean sea water and discharge two times prior to entry within 12 nm from shore. Enter the loading of ballast water in potentially polluted

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areas and flushing of ballast tanks to rid them of possible pollutants into the ship's engineering log. The entry should include the geographical position and the amount of ballast water taken on.

z. Establish a command environmental compliance self evaluation process. Self evaluation shall occur annually. The Afloat Checklist of Appendix K may be used in the performance of this evaluation.

aa. Ensure reports of all plastic discharges are properly entered in the deck log. Personally approve any plastic discharges not in compliance with the 3/20 day rule.

bb. Ensure that marine mammals are not deliberately harassed. Ensure that marine mammal protection is considered during ship operations and planning.

cc. Ensure that the requirements of reference (g) are followed for all activities associated with PCBs, PCB-containing materials, or systems potentially-contaminated with PCBs (i.e., ventilation systems with PCB-containing felt gaskets installed).

19-14.11 Commanding officers of floating drydocks shall:

a. Appoint an officer or petty officer to ensure that oil and oily waste collection and treatment systems are properly operated and maintained, and that ship-to-shore transfers of the waste are handled in a safe and effective manner.

b. Ensure that drydock personnel working with oil pollution systems are properly trained, attend appropriate schools, and are fully aware of associated documentation.

c. Coordinate with the shore activity commanding officer to ensure compliance with State or local regulatory requirements.

d. Report to the fleet commander any conditions or system/ equipment malfunctions that would necessitate solid waste discharge upon waters in which discharge is restricted.

e. Ensure that drydock systems for the collection and transfer to shoreside receiving facilities of sewage and wastewater from the ship in dock and the drydock are properly operated, periodically inspected, and properly maintained. Also ensure that transfers of sewage and wastewater are handled in a safe and effective manner. Guidance concerning CHT systems is found in Naval Ships Technical Manual Chapter 593, GENSPECS Section 593, and reference (j).

f. Ensure discharges from floating drydocks are permitted as required.

19-14.12 Fleet NOSCs shall:

a. Develop fleet SCPs.

b. Provide coordination and direction for the cleanup of OHS spills from Navy ships outside the U.S. contiguous zone.

c. Provide coordination and assistance, as requested, to predesignated shoreside NOSCs assigned in Chapter 10.

d. Report OHS spills from Navy ships under their cognizance as prescribed in paragraph 19-9.2.5 through 19-9.2.8.

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CHAPTER 20

ENVIRONMENTAL COMPLIANCE EVALUATION ASHORE

20-1 Scope

This chapter outlines procedures and responsibilities to monitor, achieve, and maintain environmental compliance ashore, primarily through the Environmental Compliance Evaluation (ECE) Program.

20-1.1 References. Relevant references are:

a. DoDINST 5405.2 of 13 July 1985, Release of Official Information in Litigation and Testimony by DoD Personnel as Witnesses; (NOTAL)

b. DoD Directive 6050.16 of 20 September 1991, Establishment and implementation of environmental standards at overseas installations; (NOTAL)

c. SECNAVINST 5720.42E; Department of the Navy Freedom of Information Act (FOIA) Program; (NOTAL)

d. SECNAVINST 5820.8A; Release of Official Information for Litigation Purposes and Testimony by DON Personnel; (NOTAL)

e. Environmental Protection Agency (EPA), Environmental Auditing Policy Statement, published in the Federal Register, Vol. 51, No. 131, July 9, 1986 (NOTAL).

20-2 Legislation

20-2.1 Freedom of Information Act (FOIA). This act provides for release of government documents to the general public upon request, unless the documents are specifically exempted from release.

20-3 Terms and Definitions

20-3.1 Activity Self Environmental Compliance Evaluation (ECE). Evaluation conducted by a Navy activity of its environmental and natural resources compliance posture and overall environmental management resulting in a report to the commanding officer (CO).

20-3.2 Major Claimant Environmental Compliance Evaluation (ECE). A detailed assessment of the environmental and natural resources compliance posture and overall environmental management program performed by the major claimants for each of their shore activities.

20-3.3 Navy Inspector General. The senior investigating official in the Department of the Navy (DON) and the principal advisor to the Secretary of the Navy, Chief of Naval Operations (CNO), and Commandant of the Marine Corps on all matters concerning inspections, investigations, and audit follow up.

20-4 Requirements

Federal regulations and EPA policy on Federal facility compliance recommends environmental audits as a tool to ensure compliance. Reference (b) as implemented by the Overseas Environmental Baseline Guidance Document (OEBGD), requires an ongoing program to evaluate environmental compliance at overseas installations.

20-5 Navy Policy

20-5.1 Purpose. The ECE program provides a means to monitor, achieve, and maintain compliance with environmental and natural resources regulations. ECEs in the U.S. and territories shall

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address Federal, State, local, DoD, and Navy environmental and natural resources requirements, as well as the management of environmental and natural resources programs. The program is intended to accomplish the following:

a. Verify whether Navy environmental and natural resources program management practices are in place, functional, and adequate.

b. Identify actual and potential areas of noncompliance, or areas likely to be in noncompliance as a result of projected statutory/regulatory changes.

c. Recommend corrective actions, including funding source, for achieving compliance.

d. Provide immediate assistance to shore activities in the implementation of easily accomplished corrective actions.

e. Determine cause(s) of potential environmental non-compliance.

20-5.2 Program Structure. The program is three tiered, using existing organizations and procedures to the maximum extent possible. The evaluation tiers stress action at the activity level and provide for management oversight. The tiers are as follows:

a. Tier 1 - Activity self ECEs

b. Tier 2 - Major claimant conducted ECEs

c. Tier 3 - Navy Inspector General (IG) environmental compliance inspections.

20-5.3 Frequency. ECEs shall be performed by the major claimants at each of their shore activities, including Government-Owned-Contractor-Operated (GOCO), at least every 3 years. Activity self-ECEs shall be performed annually.

20-5.4 Host/Tenant Relationships. At shore activities with tenants, the host shall include, in the Tier 1 self ECE, tenants for which the host provides environmental support. If the host does not provide environmental support for a tenant, the tenant shall perform the Tier 1 ECE. The host major claimant shall include in the Tier 2 ECE tenants for which the host provides environmental support. The tenant's major claimant shall perform the Tier 2 ECE for tenant activities where the host does not provide environmental support. Results of the tenant's Tier 2 ECE must be forwarded to the host major claimant for information and coordination. The major claimants of both the host and tenant may coordinate to hold a joint Tier 2 ECE.

20-5.5 Tier 2 ECE Report Format. Due to the number of regulations and the need to summarize the results of ECEs for annual assessments, the ECE shall use a standard format and checklists. Checklists shall address all Federal, State, and local environmental and natural resources requirements. Checklists for overseas installations shall be coordinated with the responsible environmental Executive Agent and shall address all requirements under the Final Governing Standards (FGS), Status of Force Agreements (SOFA), OEBGD, and EO 12088 where no FGS have been issued. COMNAVFACENGCOM shall update checklists and provide detailed guidelines for report formats.

a. **Tier 2 ECE Report.** This report shall include an executive summary, a list of team members, their reporting activity and programs evaluated.

b. **Draft Report.** A working draft report shall be given to the activity CO at the end of the ECE.

c. **Final Report.** The final report shall be released to the activity within 60 days of the ECE completion. A major claimant legal counsel

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review of the ECE report prior to release is recommended.

d. **Plan Of Action and Milestones (POA&M).** Activities shall develop and implement a POA&M to correct findings of fact from both Tier 1 and Tier 2 ECEs. The activity shall submit the POA&M from the Tier 2 ECE to their major claimant within 45 days of release of the final Tier 1 ECE.

e. **Level of Out Brief Attendance.** The out brief shall be directed to the activity commanding officer/executive officer (CO/XO) and major claimants shall attend the out-brief. Major tenants are strongly encouraged to attend at the host activity CO's discretion.

20-5.6 Environmental Compliance Evaluation Releasability. Consult either command or Engineering Field Division (EFD) legal counsel for advice on the releasability and exemptions under the Freedom of Information Act (FOIA). Reference (c) applies to all FOIA requests. If the request is made by a third party involved in litigation, reference (a) and reference (d) also apply.

20-5.7 ECEs at Closing Bases. Major claimants shall continue to conduct Tier 2 ECEs, and the activities shall continue to conduct Tier 1 self ECEs at closing bases until operations have ceased and the property reassigned or placed in a caretaker status pending reassignment or reuse.

20-5.8 Exemption Procedures. The Navy has numerous shore activities that serve only administrative functions. Those shore activities typically have minimal environmental and natural resources management requirements and as a result pose little risk to the environment. Major claimants that have those types of facilities may elect to exempt them from ECEs so that they can concentrate their resources on shore activities with significant environmental or natural resources responsibilities.

20-5.9 Training and Awareness. Every person conducting, reviewing, or approving ECEs shall receive general environmental awareness training specified in Chapter 24 of this instruction and specific comprehensive training in their assigned subject matter or environmental media, and shall be familiar with the provisions of this chapter.

20-6 Responsibilities

20-6.1 COMNAVFACENGCOM shall:

a. Maintain a system for tracking Federal, State, and local regulations and producing ECE checklists and updating checklist semiannually.

b. When requested by a major claimant, provide ECE support to the claimants via the EFDs/EFAs as part of the NAVFACENGCOM mission.

c. Provide CNO (N45) with an annual executive summary of overall Navy compliance in conjunction with the Defense Environmental Management Information System (DEMIS) and other environmental information collected. Include trends, major claimant summaries, problem areas, and recommended actions.

d. Provide guidance and training in conducting ECEs for shore activities, EFAs, EFDs, major claimants and other commands, and applicable overseas requirements, as needed.

20-6.2 Major claimants shall:

a. Implement the major claimant ECE program. Implementation responsibility may be delegated to a lower echelon claimant. Letters informing shore activities of an upcoming ECE and the final report from an ECE shall be issued by the major claimant. In host/tenant situations, the host major claimant shall perform the Tier 2 ECE for the entire installation including all tenant activities where the host provides environmental support to the tenant. The host major claimant

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should coordinate with the tenant's major claimant to ensure Tier 2 ECEs are performed for all tenants.

b. Ensure that their shore activities conduct annual self ECEs.

c. Conduct an ECE at each assigned shore activity at least every 3 years as discussed in section 20-5.3. Obtain assistance, as needed, from NAVFACENGCOM field activity and specialty offices. Major claimant personnel, at a minimum, shall be present at each activity for the final out-brief.

d. Develop a summary assessment of the overall compliance posture at the end of each fiscal year and list all activities where Tier 2 ECEs were performed.

e. Provide an annual briefing to CNO (N45), using the summary assessment, on the compliance posture of all claimant activities and discuss any compliance problems or environmental issues affecting operations, facilities, vessels, aircraft, and equipment.

f. Forward copies of all ECE executive summaries to NAVFACENGCOM, the appropriate EFD or Engineering Field Activity (EFA), and the REC.

20-6.3 Regional environmental coordinators shall review the results of ECEs in their regions and take any required coordinating actions, consistent with Chapter 1 of this manual.

20-6.4 Commanding officers of shore activities shall:

a. Perform annual self ECEs. Self ECE reports shall be made available to major claimant and IG teams, upon request.

b. Develop and execute plans of action for achieving compliance for all findings noted on Tier 2 and self ECEs. Submit requests for funding to the major claimant for projects requiring corrective actions.

c. Advise the regional environmental coordinator if a finding of fact or problem identified may result in significant adverse public relations and/or require regional coordination to solve.

d. Ensure environmental compliance is a factor in the performance evaluations of appropriate personnel.

e. Participate, if a tenant, in the host activity's Tier 1 and Tier 2 ECEs. If a host, include tenants in the host Tier 1 ECE, or delegate ECE authority to the tenant.

f. Submit funding requests to support projects requiring corrective actions for the deficiencies identified.

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CHAPTER 21

OCEAN DUMPING

21-1 Scope

This chapter identifies requirements and responsibilities for ocean disposal of material, other than dredged or fill material (see Chapter 7) and those discharges covered in Chapter 19.

21-1.1 References. Relevant references are:

a. 33 CFR 324, Permits for Ocean Dumping of Dredged Material;

b. 40 CFR 220-225, 227-229, Ocean Dumping Regulations and Criteria;

c. NAVMEDCOMINST 5360.1 of 17 September 1987, Decedent Affairs Manual; (NOTAL).

21-2 Legislation

21-2.1 Marine Protection, Research, and Sanctuaries Act (MPRSA). Bars the transport of any material from the U.S. for the purpose of dumping into the ocean waters without a permit issued by the Environmental Protection Agency (EPA), and dumping material from outside the U.S. within the territorial sea or contiguous zone. The primary means of regulation is a Federal permit system; violations carry civil penalties of $50,000 per violation, and criminal penalties of one year imprisonment and/or $50,000 fine.

21-2.2 Ocean Dumping Act. Prohibits the transportation of material from the U.S. or any other location for the purpose of ocean dumping unless an EPA permit has been obtained. Violation of this requirement is punishable under Federal law. In practical terms, this Act requires that trash and garbage generated in port be off-loaded for shore disposal before getting underway. It also means that wastes generated during exercises ashore cannot be loaded aboard ships for subsequent ocean disposal.

21-3 Terms and Definitions

21-3.1 Dumping. The intentional disposition of wastes generated ashore or materials onloaded in port for the express purpose of disposal at sea. Does not include routine discharge of materials or wastes generated on board ship and/or effluent incidental to the propulsion or operation of motor driver equipment on vessels. It does, however, include the discharge of contaminated material, including bilge water, received from another ship or shore source.

21-3.2 Material. Matter of any kind or description, including, but not limited to, solid waste, incinerator residue, garbage, sewage, sewage sludge, munitions, radiological, chemical and biological warfare agents, and discarded equipment, but does not include sewage from vessels processed through an approved marine sanitation device (MSD) as described in Chapter 19.

21-3.3 Ocean Waters. Waters seaward of the baseline from which the boundary of the territorial sea is measured.

21-4 Requirements

Unless specifically permitted, dumping of material in ocean waters is prohibited without a permit.

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21-5 Navy Policy

21-5.1 Ocean Dumping

21-5.1.1 Ocean dumping may only be authorized on a case-by-case basis by Chief of Naval Operations (CNO) (N43). Except in emergency conditions, requests for such authorization shall be accompanied by documentation per the criteria established in reference (b). Following CNO approval, full compliance with EPA permitting procedures is required.

21-5.1.2 Any material may be dumped from ships and aircraft in an emergency to safeguard life at sea.

21-5.2 Transport of Target Vessels

21-5.2.1 The transportation of naval ships and craft from the U.S. or from any other location for the purpose of conducting a sinking exercise (SINKEX) concerning tests and evaluations of conventional ammunition and weapons systems is subject to EPA permit requirements.

21-5.2.2 Necessary measures shall be taken to ensure that the vessel sinks to the bottom rapidly and permanently and that marine navigation is not impaired by the sunken vessel.

21-5.2.3 All such vessel sinkings shall be conducted in water of at least 1,000 fathoms (6,000 feet) and at least 50 nm from land, as measured from that portion of the baseline from which any territorial sea is measured (as provided for in the Convention on the Territorial Sea and the Contiguous Zone) that is the closest proximity to the proposed disposal site.

21-5.2.4 Under permit conditions and before sinking, appropriate measures shall be taken by qualified personnel at a Navy or other appropriate facility to remove, to the maximum extent practicable, all materials that may degrade the marine environment, including, but not limited to:

a. Emptying of all fuel tanks and lines to the lowest point practicable, flushing of such tanks and lines with water, and again emptying such tanks and lines to the lowest point practicable so that tanks and lines are essentially free of petroleum.

b. Removing from the hulls other pollutants and all readily detachable material capable of creating debris or contributing to chemical pollution.

21-5.2.5 Each SINKEX operation shall be conducted only after approval by CNO (N43) and preparation of the target per the EPA permit and specific OPNAV directives.

21-5.2.6 Requests for conducting SINKEX exercises shall be forwarded via chain of command to CNO (N43) on a case-by-case basis and shall include:

a. User activity

b. Requirements for, or purpose of the sinking

c. Designated target hulls and approximate tonnage

d. Statement that the designated hull has been prepared per the specification of paragraph 21-5.2.4

e. Approximate date and location of the sinking.

21-5.2.7 After the sinking, a report (Report Symbol OPNAV 5090-12) shall be made to CNO (N43) (copies to N44, N45, and appropriate fleet and force commanders) with the name of each

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vessel sunk, approximate tonnage, and the location and date of sinking.

21-5.3 Burial at Sea

21-5.3.1 The EPA has granted a general permit to transport human remains from any location for the purpose of burial at sea and to bury such remains at sea.

21-5.3.2 Human remains shall be prepared for burial at sea and be buried per Chapter 8 reference (c). (Report Symbol OPNAV 5090-9).

21-5.3.3 For non-cremated human remains, burial at sea shall take place no closer than 3 nm from U.S. land and 12 nm from foreign land and in water of no less than 100 fathoms (600 feet) depth. All necessary measures shall be taken to ensure that the encased remains sink to the bottom rapidly. For purposes of this paragraph, "land" means that portion of the baseline from which any territorial sea is measured (as provided for in the Convention on the Territorial Sea and the Contiguous Zone) that is in closest proximity to the proposed disposal site.

21-5.3.4 Cremated remains shall be buried in or on ocean waters without regard to the depth limitations specified above, provided that such burial take place no closer than 3 nm from U.S. land and 12 nm from foreign land.

21-6 Responsibilities

21-6.1 CNO (N43) shall prepare and submit an annual report to the EPA Administrator setting forth the name of each vessel sunk as a target, its approximate tonnage, and the location and date of sinking (Report Symbol OPNAV 5090-12).

21-6.2 COMNAVFACENGCOM shall provide technical assistance to Navy commands, vessels, and activities, as requested, in matters concerning ocean dumping.

21-6.3 Fleet Commanders in Chief shall:

a. Ensure that all naval vessel and shore activity commanders comply with the policies and criteria as stated herein.

b. Ensure that ship sea detail checklists include a requirement to collect and offload all trash and garbage before getting underway.

c. Ensure that planning for exercises includes provisions for appropriate disposal of wastes generated ashore during the exercise.

21-6.4 Commanding officers of a vessel or aircraft conducting burials at sea shall report within 30 days the date, longitude and latitude, number, and type of burial (whole body or cremated remains) to the fleet commander in chief (CINC), with copies to the type commander and the regional environmental coordinator.

21-6.5 Area environmental coordinators shall submit a monthly report to the appropriate EPA regional office detailing all burials at sea conducted during the previous 30 days.

21-6.6 Commanding officers of ships shall, prior to getting underway from port, see that all trash and garbage is collected and off-loaded. This requirement shall be included in the ship's sea detail checklist.

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CHAPTER 22

NATURAL RESOURCES MANAGEMENT

22-1 Scope

22-1.1 This chapter establishes Chief of Naval Operations (CNO) program requirements, guidelines, and standards for complying with resource protection laws, and conserving and managing natural resources in the United States and its territories and possessions for both appropriated and non-appropriated fund activities. This chapter also summarizes the natural resources management (NRM) program for managing Navy lands, waters, forests, fish and wildlife, and outdoor recreation resources.

22-1.2 More detailed program requirements, guidelines, and procedures for all elements of NRM program are addressed by reference (r). That manual is a Navy-wide directive under the authority of this instruction.

In addition to implementing statutes governing natural resource management, this chapter establishes policy and provides guidance to implement the requirements of 4 Executive Orders (EOs). EO 11987, Exotic Organisms of 24 May 1977, requires executive agencies to restrict the introduction of exotic organisms into natural ecosystems. EO 11988, Floodplain Management of 24 May 1977, provides direction regarding actions of Federal agencies in floodplains. EO 11644, as amended by EO 11989, Use of Off-Road Vehicles on Public Lands of 24 May 1977, establishes policies and provides for procedures to control use of off-road vehicles on public lands. EO 11990, Protection of Wetlands of 24 May 1977 as amended, directs the preservation and enhancement of wetlands.

22-1.3 The Navy NRM policies for activities in foreign countries are addressed in Chapter 18.

22-1.4 References. Relevant references are:

a. 7 CFR 658, Farm Land Protection Policy;

b. 15 CFR 923, National Oceanic and Atmospheric Administration Coastal Zone Management Program Development and Approval Regulations, current edition;

c. 15 CFR 930, Federal Consistency with Approved Coastal Management Programs;

d. 16 CFR 3501, Coastal Barrier Resources;

e. 32 CFR 190, Natural Resources Management Program (also DOD DIR 4700.4 of 24 January 1989; (NOTAL))

f. 33 CFR 320-330, Clean Water Act Section 404 and Rivers and Harbors Act Section 10 Regulatory Programs;

g. 36 CFR 251.23, Experimental Areas and Research Natural Areas;

h. 40 CFR 6, EPA National Environmental Policy Act Procedures;

i. 40 CFR 300.600, National Oil and Hazardous Substances Pollution Contingency Plan (NCP), Designation of Federal Trustees;

j. 40 CFR 300.615, Responsibilities of Trustees;

k. 50 CFR 10, 18 216, 228, Regulations Concerning Marine Mammals;

l. 50 CFR 10.13, List of Migratory Birds;

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m. 50 CFR 17.11 & 17.12, Fish and Wildlife Service List of Endangered and Threatened Wildlife and Plants;

n. 50 CFR 402, Interagency Cooperation - Endangered Species Act of 1973;

o. DoDINST 7310.5 of Jan 25, 1988, Accounting for Production and Sale of Forest Products; (NOTAL)

p. NAVCOMPT Manual Volume 3; (NOTAL)

q. NAVFAC Real Estate Procedural Manual, P-73, Vol. I; (NOTAL)

r. NAVFAC Natural Resources Management Procedure Manual, P-73, Vol II (NOTAL).

22-2 Legislation

Laws that control the management of natural resources on Navy lands and that regulate the Navy's operations with respect to natural resources are listed below. Legal citations are included in Appendix A.

22-2.1 Bald Eagle Protection Act. Provides for the protection of bald and golden eagles.

22-2.2 Coastal Barrier Resources Act of 1982. Regulates the expenditure of federal funds to discourage development within boundaries of undeveloped, unprotected coastal barriers of the Coastal Barrier Resources System established by the Act, unless the expenditures are for military activities essential to national security.

22-2.3 Coastal Zone Management Act (CZMA). Establishes goals and a mechanism for States to control use and development of their coastal zone. Authorizes States to administer approved coastal nonpoint pollution programs.

22-2.4 Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). As amended by the Superfund Amendments and Reauthorization Act (SARA), CERCLA establishes a series of programs for the cleanup of hazardous waste disposal and spill sites nationwide. Requires protection of human health and the environment. Work under this legislation is conducted under the Navy Installation Restoration (IR) Program (Chapter 15).

22-2.5 Conservation Programs on Military Reservations (Sikes Act). Provides framework for management of natural resources on military lands.

22-2.6 Defense Appropriations Act of 1991 Legacy Program. Establishes program for the stewardship of biological, geophysical, cultural and historic resources on Department of Defense (DoD) lands.

22-2.7 Endangered Species Act (ESA). Provides for the identification and protection of threatened and endangered species of animals and plants and their critical habitats.

22-2.8 Federal Insecticide, Fungicide, and Rodenticide Act. Governs the use and application of pesticides in natural resource management program.

22-2.9 Federal Noxious Weed Act of 1974. Establishes control and eradication of noxious weeds and regulates them in interstate and foreign commerce.

22-2.10 Federal Water Pollution Control Act as amended by the Clean Water Act of 1977 (CWA). Regulates dredging and filling of wetlands and establishes procedures for identifying and regulating nonpoint sources of polluted discharge into waterways.

22-2.11 Fish and Wildlife Conservation Act. Encourages management of non-game species.

22-2.12 Fish and Wildlife Coordination Act. Provides mechanism for wildlife conservation to receive equal consideration and be coordinated with water-resource development programs.

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22-2.13 Forest Resources Conservation and Shortage Relief Act. Regulates the export of unprocessed timber originating from Federal lands in western States.

22-2.14 Marine Mammal Protection Act. Protects marine mammals and establishes a marine mammal commission.

22-2.15 Marine Protection, Research, and Sanctuaries Act of 1972. Establishes regulations relating to dumping specific material into open waters and establishes a program for designation and regulation of national marine sanctuaries.

22-2.16 Migratory Bird Treaty Act. Protects migratory birds and establishes a permitting process for legal taking.

22-2.17 Military Construction Authorization Act - Leases; Non-excess property. Provides for the outleasing of public lands. Information can be found in 10 U.S.C. 2667 (an update of the Military Construction Authorization Act of 1956).

22-2.18 Military Construction Authorization Act - Military Reservations and Facilities - Hunting, Fishing, and Trapping. Establishes requirements for regulating hunting, fishing, and trapping on military lands. Such information is available in 10 U.S.C. 2671 (an update of the Military Construction Authorization Act of 1956).

22-2.19 Military Construction Authorization Act - Sale of Certain Interests in Lands; Logs. Provides for the production and sale of forest products. Information can be found in 10 U.S.C. 2665 (an update of the Military Construction Authorization Act of 1956).

22-2.20 National Environmental Policy Act (NEPA). Provides a national charter for protection of the environment and requires Federal agencies to prepare a statement of environmental impact in advance of each major action that may significantly affect the quality of the human environment.

22-3.21 Oil Pollution Act of 1990 (OPA 90). Redefines the requirements of the National Contingency Plan (NCP) to include planning for, rescue of, minimization of injury to, and assessment of damages for injury to, fish and wildlife resources.

22-2.22 Outdoor Recreation - Federal/State Programs Act. Defines a program for managing of lands for outdoor recreation.

22-2.23 Soil Conservation Act. Provides for application of soil conservation practices on Federal lands. Such information can be found in 16 U.S.C. 590A.

22-3 Terms and Definitions

22-3.1 Agricultural Outleasing. Use of DoD lands under a lease to an agency, organization, or person generally for growing crops or grazing domestic animals.

22-3.2 Annual Increment. A management section addendum prepared annually, to facilitate implementation of a NRM plan section. The annual increment concisely provides detail and cost estimates of proposed work or projects to be accomplished during a fiscal year.

22-3.3 Best Management Practices (BMP). Within the scope of this chapter, BMPs are practical, economical and effective management or control practices that will reduce or prevent water pollution. Usually BMPs are applied as a system of practices based on site-specific conditions rather than a single practice. BMPs are usually prepared by State agencies for land disturbing activities related to agriculture, forestry, and construction.

22-3.4 Biodiversity. The diversity of life and its processes; living organisms, the genetic differences among them and the communities and ecosystems in which they occur.

22-3.5 Biological Assessment. A biological evaluation conducted as part of the interagency regulations under the ESA. The purpose of the

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assessment is to allow the regulatory agency to determine whether or not the proposed action is likely to adversely affect the continued existence of a species listed as endangered or threatened, or proposed for listing.

22-3.6 Candidate Species. Any species being considered by the Secretary of Interior or Commerce for listing under the Endangered Species Act as an endangered or a threatened species, but not yet the subject of a proposed listing.

22-3.7 Carrying Capacity (Outdoor Recreation). The maximum sustainable amount of recreation activity and number of participants that a land or water area can support in a manner compatible with the objectives of the NRM plan and without impairing or degrading existing natural resources.

22-3.8 Carrying Capacity (Wildlife). The maximum density of wildlife that a particular area or habitat will support on a sustained basis without deterioration of the habitat.

22-3.9 Coastal State. A State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. The term also includes Puerto Rico, the Virgin Islands, Guam, and America Samoa.

22-3.10 Coastal Zone. An area specifically identified or otherwise delineated by a coastal State in its approved Coastal Zone Management Plan. It is an area of coastal waters and adjacent shorelines strongly influenced by each other and in proximity to the shorelines of the several coastal States, including islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. Excluded from the coastal zone are lands solely subject to or held in trust by the Federal government, its officers or agents.

22-3.11 Conservation. The prudent care, protection, and management of natural resources that best reflect sound resource stewardship for present and future generations.

22-3.12 Critical Habitat. The geographic area on which are found those physical or biological features essential to the conservation of a species listed and published by the U.S. Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) under the authority of the ESA.

22-3.13 Damages. The amount of money calculated to compensate for injury to, destruction of, loss of, or loss of use of natural resources, including the reasonable costs of assessing or determining the damage, which will be recoverable by a trustee.

22-3.14 Ecological Reserve Areas. A physical or biological unit in which current natural conditions are maintained insofar as possible by allowing natural, physical and biological processes to prevail without human intervention, except under unusual circumstances when deliberate manipulation may be utilized to maintain the unique feature(s) that the ecological reserve area was established to protect.

22-3.15 Ecological Risk Assessment. A quantitative and/or qualitative appraisal of the actual or potential effects of a hazardous waste (HW) site on plants and animals other than people or domesticated species.

22-3.16 Ecosystem. A system formed by the interaction of a community of organisms with each other and the environment.

22-3.17 Ecosystem Management. Ecosystem management in DoD draws on a long-term vision of desired future ecological conditions, integrating ecological, economic and social factors. The goal of ecosystem management is to maintain and improve the sustainability and native biological diversity of ecosystems while supporting human needs, including the military mission.

22-3.18 Endangered or Threatened Species. A species of fauna or flora that has been listed by the USFWS or the NMFS for special protection and management under the ESA.

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22-3.19 Fish and Wildlife Cooperative Plan. A plan for the cooperative management of fish and wildlife on a military installation by the host military activity, and the appropriate Federal and State fish and wildlife agencies as required by the Sikes Act.

22-3.20 Fish and Wildlife Management. A coordinated program of actions designed to preserve, enhance and regulate indigenous wildlife and its habitats, including conservation of protected species and non-game species, management and harvest of game species, bird aircraft strike hazard (BASH) reduction, and animal damage control.

22-3.21 Forest Management. An integrated program for managing forested areas for the commercial production and sale of forest products, including timber management, forest administration, timber sales, reforestation, timber stand improvement, timber access road construction and maintenance, forest protection, and other directly related functions; and for maintaining the health and vigor of non-commercial forest ecosystems.

22-3.22 Forest Products. All plant materials in wooded areas that have commercial value.

22-3.23 Game Species. Fish and wildlife that may be harvested per applicable Federal and State hunting and fishing laws.

22-3.24 Grounds. All land areas not occupied by buildings, structures, pavements, and other facilities. Depending on the intensity of management, grounds may be classed as improved, as those near buildings, semi-improved, or unimproved.

22-3.25 Habitat. An area where a plant or animal species lives, grows, and reproduces, and the environment that satisfies their life requirements.

22-3.26 Injury. Any adverse change in a natural resource or impairment of a service provided by a resource relative to baseline, reference, or control conditions. Injury incorporates the concepts of "destruction," "loss," and "loss of use."

22-3.27 Land Management. Programs and techniques to manage lands, wetlands, and water quality, including soil conservation, erosion control and nonpoint source pollution, surface and subsurface waters, habitat restoration, control of noxious weed and poisonous plants, agricultural outleasing, range management, identification and protection of wetlands, watersheds, floodplains management, landscaping, and grounds maintenance.

22-3.28 Multiple Use. The sustainable use of natural resources for the best combination of purposes to meet the long-term needs of the DoD and the public.

22-3.29 Natural Resources. Landforms, soils, waters, and their associated flora and fauna.

22-3.30 Natural Resources Damage Assessment. The process of collecting and analyzing information to determine injury to, or destruction of, or loss of, natural resources, and the assessment of damages for that injury, including the costs of assessing the injury, loss or destruction resulting from a past or present HW release or oil spill.

22-3.31 Natural Resources Management (NRM) Plan. A 5-year planning document that guides legally and ecologically sound, cost effective management of natural resources to maximize benefits for the installation and neighboring community. The NRM Plan addresses all land, agriculture, forest, fish, and wildlife and outdoor recreation resources of the installation.

22-3.32 Natural Resources Management Procedural Manual (NRMPM). Reference (r) which provides comprehensive guidance for implementing requirements of pertinent laws, EOs, and Federal regulations, DoD directives, SECNAV and OPNAV instructions.

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22-3.33 Natural Resources Management Professional. Individual with an undergraduate or graduate degree from and accredited U.S. college or university in a natural resources related science and who has the responsibility for managing natural resources on a regular basis.

22-3.34 Natural Resources Trustee. Federal trustees are those agencies who have statutory responsibilities with regard to protection or management of natural resources or stewardship responsibilities as a manager of Federally owned land. State agencies and Indian tribes may also be trustees.

22-3.35 Non-game Species. Fish and wildlife species not classified as game species and that are not harvested for recreation or subsistence purposes.

22-3.36 Nonpoint Source (NPS) Pollution/Polluted Runoff. Pollution caused by diffuse sources that are not regulated as point sources and normally associated with runoff from construction activities, urban, agricultural and silvicultural runoff, and other land disturbing activities such as military training and operations that disturb lands, soils, and waters. NPS pollution can result from land runoff, precipitation, atmospheric deposition, or percolation. This definition is necessarily general; legal and regulatory decisions have sometimes resulted in certain sources being assigned to either the point or NPS categories because of considerations other than their manner of discharge. For example, irrigation return flows are designated as "non-point source" by Section 402(1) of the CWA, even though the discharge is through a discrete conveyance.

22-3.37 Noxious Weeds. Plant species identified by Federal or State agencies as requiring control or eradication.

22-3.38 Off-road Vehicle. A vehicle designed or used for recreational travel on natural terrain. The term excludes a registered motorboat confined to use on open water and a military, emergency, or law enforcement vehicle during use by an employee or agent of the government or one of its contractors in the course of carrying out their tasks.

22-3.39 Outdoor Recreation. Program, activity, or opportunity dependent on the natural environment. Examples are picnicking, bird-watching, off-road vehicle use, hiking, wild and scenic river use, and primitive camping. Developed or constructed facilities such as golf courses, tennis courts, riding stables, lodging facilities, boat launching ramps and marinas are not included.

22-3.40 Outdoor Recreation Management. Management of natural resources to provide recreation opportunities that are sustainable, within the military mission, within established carrying capacities, and consistent with the natural resources upon which they are based. Outdoor recreation shall be predominantly muscle powered activities that will not impair or degrade natural resources.

22-3.41 Projects. Includes studies, plans, surveys, inventories, and land/water treatments as well as physical improvements.

22-3.42 Proposed Species. Any species of fish, wildlife or plant that is proposed in the Federal Register to be listed under Section 4 of the ESA.

22-3.43 State Listed Species. Any species of fish, wildlife or plant that is protected by an appropriate State agency as issued in a State's endangered species law and other pertinent regulations.

22-3.44 Stewardship. The responsibility to inventory, manage, conserve, protect, and enhance the natural resources entrusted to one's care in a way that respects the intrinsic value of those resources, and the needs of present and future generations.

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22-3.45 Sustainable Yield. Production of renewable natural resources at a level such that harvest or consumptive use does not exceed net growth.

22-3.46 Watershed. The ridge or crestline dividing two drainage areas; the area drained by a river or stream.

22-3.47 Wetlands. Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, marshes, and bogs.

22-4 Requirements

This section contains a general discussion of the requirements of the many laws, regulations, EOs or directives that apply to natural resources. These requirements are organized loosely by subject areas, including general or program-wide requirements, fish and wildlife, land management, forest management, outdoor recreation, and environmental restoration.

22-4.1 General

a. **Natural Resources Management.** Each military reservation within the U.S. is required to manage its natural resources to provide for sustained multi-purpose uses and to provide public access appropriate for those uses to the extent that the uses are not inconsistent with the mission. Reference (e) requires preparation and maintenance of plans for the integrated management of those natural resources.

b. **Integrated Natural Resources Management Plans.** Each installation having custody of Class I property (land and water) suitable for the conservation and management of natural resources will prepare (or ensure preparation of) and implement a comprehensive, integrated, NRM plan that includes all phases of NRM applicable to the installation. Management plans will be prepared by professionally trained personnel; address compliance with legal mandates protecting specific natural resources; and, include sections on various programs covered by this chapter. NRM plans will be continually monitored, reviewed annually, and revised and re-approved at least every 5 years.

c. **Pesticide Use in NRM Programs.** If any multiple-use program of land management involves pesticides, users will ensure that use complies with applicable requirements (see Chapter 13). Pesticide use will be minimized and applied per the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

d. **Public Access Associated with the NRM Program.** Military lands will be available to the public and DoD employees for enjoyment and use of natural resources, except when a specific determination has been made that a military mission prevents such access for safety or security reasons, or that the natural resources will not support such usage. The determination will be included and explained in the installation NRM plan.

e. **Access by Federal and State Conservation Officials.** Federal, State, and local officials will be permitted access to natural resources after proper safety and security measures are taken.

f. **Consistency with Coastal Zone Plans.** The CZMA requires that Navy installations ensure their operations, activities, projects, and programs, in or on coastal lands or waters, that affect the coastal zone are consistent to the maximum extent practicable with the Federally approved Coastal Zone Management Plan of the State.

g. **Protection of Coastal Barriers.** Before construction, maintenance, military activities, or other Federal expenditures may take place in designated Coastal Barrier Resources, the Navy is required to consult with the Secretary of the

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Interior. Navy activities may expend funds in areas designated as coastal barriers only for uses listed in reference (d), which include military activities essential to national security, projects for the study, management, protection and enhancement of natural resources, scientific research, essential emergency actions, maintenance (but not expansion) of publicly owned structures, and non-structural projects for shoreline stabilization.

h. **Exotic Organisms.** The introduction of exotic species into any natural ecosystem is prohibited, unless either the Secretary of Agriculture or the Secretary of the Interior find that such introduction will not have an adverse effect on those ecosystems.

22-4.2 Fish and Wildlife

This section discusses requirements of various laws that govern aspects of natural resource management that relate to the protection and management of fish and wildlife resources.

a. **Endangered Species.** The Navy, as a Federal agency, is required (reference (n) to consult with the USFWS (or the NMFS for oceanic species) on any action that may affect an endangered or threatened species, that results in adverse modification to critical habitat, or that is likely to jeopardize the continued existence of any species formally proposed to be listed under the Endangered Species Act. Such consultations can be either formal or informal. When necessary, the Navy will prepare a biological assessment of the effects of a proposed action on listed species to assist the USFWS in issuing a Biological Opinion as to whether the action will jeopardize the continued existence of the species. In addition, the Navy will utilize its authority to further programs for the conservation of endangered and threatened species.

b. **Marine Mammals.** Under the provisions of the *Marine Mammal Protection Act*, Federal agencies must not take (harass or kill) any marine mammal on the high seas, or in waters or on land under the jurisdiction of the U.S. Permits for a take that may be incidental to a legitimate operation can be obtained through a lengthy rulemaking procedure. In addition, many marine mammals are also endangered species. Navy activities will evaluate their operations that may affect marine mammals.

c. **Bald and Golden Eagles.** It is illegal for anyone to take a bald or golden eagle; the Navy, as a Federal agency, must cancel any lease, license, or other agreement that authorizes grazing of domestic livestock by anyone convicted of a bald or golden eagle violation.

d. **Migratory Birds.** Except as permitted, actions of the Navy may not result in pursuit, hunting, taking, capture, killing, possession or transportation of any migratory bird, bird part, nest or egg of any bird listed at reference (l). (Birds designated as migratory are protected even though certain populations may not be migratory in nature). Navy activities must apply in advance for depredation permits for actions that may kill migratory birds, their young or eggs.

e. **Fish and Wildlife Coordination.** When the Navy proposes to take an action that modifies any stream or body of water, the Fish and Wildlife Coordination Act requires that Navy activities first consult with the USFWS and the cognizant State wildlife agency with a view to the conservation of wildlife resources that may be affected by the proposed action. The Navy must include recommendations of the USFWS and State in reports to Congress or to persons authorizing the construction. The Navy must give full consideration to the wildlife aspects of the proposed action. This is not applicable to activities in connection with programs primarily for land management and use carried out by Federal agencies with respect to Federal lands under their jurisdiction.

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f. **Fish and Wildlife Conservation.** Congress encourages all federal agencies to utilize their statutory and administrative authority, to the maximum extent practicable and consistent with each agency's responsibilities, to conserve and to promote conservation of nongame fish and wildlife and their habitats.

g. **Cooperative Plans for Military Fish and Wildlife.** Navy activities are required to manage fish and wildlife cooperatively with the appropriate Federal and State fish and wildlife agencies under a cooperative plan (Chapter 4 of NRMPM). Cooperative agreements with appropriate Federal and State agencies will be required for installations having potential for management of fish, wildlife, and outdoor recreation resources. Natural resources cooperative agreements are intended to expand installation opportunities for assistance and cooperation with Federal and State agencies. A cooperative plan consists of a fish and wildlife management section (of the NRM plan) plus the cooperative agreement (with appropriate Federal and State agencies) to implement the section. Installations cannot legally allow trapping, hunting, fishing, or collect fees for these activities without a cooperative management plan. Installations will formally request the participation of the appropriate Federal and State agencies in a cooperative plan. Guidance for preparation of the cooperative plan is provided by the NRMPM. Cooperative plans for military fish and wildlife will be reviewed and signed by the installation commanders, reviewed for technical accuracy and signed by the cognizant Engineering Field Division (EFD), and submitted to major claimants' environmental offices. Cooperative agreements will also be included as part of the installation's integrated NRM Plan.

h. **Fish and Wildlife Management.** Navy activities with such programs will ensure that professional services are provided for management of fish and wildlife resources on each installation. When contracting fish and wildlife work on military controlled lands, priority will be given to Federal and State agencies having responsibilities for conservation and management of fish and wildlife. Fees or proceeds from hunting, fishing, aqua-culture, and trapping will be used only for funding or supplementing funding of wildlife management programs on installations where fees are collected. Uses may include funding of partnerships, cooperative and research agreements with appropriate agencies. Fees must be handled according to specific procedures set forth in the Chapter 4 of NRMPM.

22-4.3 Land Management

Requirements of laws governing management of lands and waters are discussed under this section.

a. **Wetlands Protection.** Section 404 of the CWA prohibits discharges of dredged or filled material into waters of the U.S., including wetlands, without first obtaining a permit from the U.S. Army Corps of Engineers (COE). The Navy will comply with the national goal of no net loss of wetlands, and will avoid loss of size, function and value of wetlands. In addition, the Navy will preserve and enhance the natural and beneficial values of wetlands in carrying out its activities.

b. **Nonpoint Source Pollution.** Section 319 of the CWA describes guidelines for the control of nonpoint source pollution. These guidelines assign the States responsibility to implement nonpoint source programs. Federal consistency provisions also authorize States to review federal activities for consistency with State nonpoint source programs. (Section 6217 of the CZMA establishes authority for States to administer coastal nonpoint pollution programs when approved by National Oceanic and Atmospheric Administration (NOAA) and the Environmental Protection Agency (EPA)).

c. **Agriculture.** As part of the integrated management of natural resources, DoD lands will be managed to conserve lands suitable for agricul-

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ture, and will be reviewed for suitability for agricultural outlease purposes when compatible with military needs. Rentals received by the installations from agricultural leases will be deposited as directed in Chapter 19 of reference (q).

d. **Soil Conservation.** Federal agencies are directed to manage lands so as to control and prevent soil erosion and preserve natural resources by conducting surveys and implementing soil conservation measures.

e. **Farmland Protection.** Federal agencies must identify prime and unique farmland and take into account the adverse effects of Federal programs on the preservation of farmland; consider alternative actions, as appropriate, to reduce such adverse effects; and assure that such Federal programs to the extent practicable, are compatible with State, local government, and private programs and policies to protect farmland.

f. **Control of Noxious Weeds.** Navy installations will cooperate with States in which there is a program for controlling noxious plants, and will allow access for that control, provided that it is consistent with national security, control measures are acceptable and have been followed on privately owned lands.

g. **Floodplain Management.** As it carries out land management, construction and land use activities, the Navy will provide leadership in avoiding direct or indirect development of floodplains, and in restoring and preserving the natural and beneficial values served by floodplains. Potential effects of actions in floodplains must be evaluated and early opportunity for public review of proposals in floodplains must be provided.

22-4.4 Forest Management

a. **Management Requirements.** Navy installations with forests or lands with the potential for the growth and production of forest products will provide for optimum sustainable yield of forest products and the improvement of forest resources, consistent with the military mission and multiple use of natural resources. Installation NRM plans will, when appropriate, include current forest inventories, conditions, trends, and potential uses; silvicultural goals; maintenance of forested areas and access roads; forest and stand improvement methods; harvesting and reforestation methods and schedules; and protection and enhancement of other natural resources.

b. **Product Sales.** Navy contracts for sale of timber and forest products will include requirements for orderly harvesting, operational procedures, and payment for products to be sold. Forest products will not be given away, abandoned, carelessly destroyed, used to offset costs of contracts, or traded for products, supplies, or services. Proceeds collected from the disposal or sale of all merchantable forest products produced on a Navy installation will be turned over to the servicing Navy accounting and finance officer. For each installation generating forest product sales, records will be kept to show sales proceeds generated by fiscal year for determining payments to States as required by 10 USC 2665. Criteria and procedures for administering timber sale contracts are contained in Chapter 3 of NRMPM.

c. **Accounting and Use of Forestry Proceeds.** Navy installations or commands incurring obligations for the production and sale of forest products are to be reimbursed from collections made as a result of the sale of such products. Forest management program obligations must be related directly to the economic production and sale of forest products and the enhancement, protection, conservation and management of Navy forests. Insofar as they meet this test, obligations may include funding of cooperative agreements and research agreements with appropriate agencies. Reimbursable program obligations do not include expenses incurred for operations that, while related to the land and forest, are for other purposes, nor do they include expenses for the

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protection of forests that are incapable of economic production of forest products. Nonessential program expenses will be limited to ensure a balanced program as required by reference (o), reference (p), and Chapter 3 of reference (r).

d. **Export Lumber.** The 1990 Forest Resources Conservation and Shortage Relief Act (16 USC 620 et seq.) prohibits the export of unprocessed timber originating from federal lands west of the 100th meridian in the contiguous 48 States and restricts substitution of unprocessed federal timber for timber exported from private lands. All Navy solicitations and contracts for timber sales affected by this statutory limitation will contain a provision restricting the export of unprocessed timber procured on Navy lands.

e. **Forest Pest Suppression.** Navy installations with forest resources will cooperate fully in the planning, coordination, and execution of field operations to prevent and suppress damaging forest insect and disease outbreaks, consistent with the terms of the Forest Pest Suppression Memorandum of Agreement (MOA) between the Department of Agriculture and the DoD of 11 December 1990, and whenever it is determined to be necessary by either the Regional U.S. Forest Supervisor or cooperating State forestry department or commission.

22-4.5 Outdoor Recreation

a. **Recreation Opportunities.** The Sikes Act requires that installations provide public access for natural resources uses to the extent it is appropriate and consistent with the military mission.

b. **National Park Service.** A Memorandum of Understanding (MOU) between the Department of Defense and the Department of the Interior provides guidance on the management of natural resources for outdoor recreation. Cooperative agreements with the National Park Service, in conjunction with the integrated NRM Plan, are the mechanism for a program of planning, development, maintenance and coordination of outdoor recreation on Navy lands.

c. **Off-Road Vehicles.** Off-road vehicle use on Navy land will be permitted only in designated areas and trails. Policies, procedures, and criteria for establishing designated off-road areas and trails are provided in Chapter 5 of NRMPM.

22-4.6 Environmental Restoration

a. **Natural Resource Trustees.** CERCLA, as amended by the Superfund Amendments and Reauthorization Act (SARA) (Part 101, section 16), defines natural resources as "land, fish, wildlife, biota, air water, ground water, drinking supplies, and other such resources." CERCLA designates the President as the trustee for federally protected or managed natural resources on behalf of the public. In addition to EO 12580, the National Oil and Hazardous Substances Contingency Plan (see Chapter 11) designates heads of specified Departments, including the Department of Defense, as natural resource trustees.

b. **Natural Resource Trustee Responsibilities.** After notification or discovery of a natural resource injury, loss, or threat, a trustee takes appropriate actions such as conducting a preliminary survey of the area affected by the discharge or release to determine if natural resources are or may be affected; cooperating with the On-Scene Coordinator/Regional Project Manager (OSC/RPM) in coordinating assessments, investigations, and planning; carrying out a plan for restoration, rehabilitation, replacement or acquisition of equivalent natural resources.

c. **Ecological Risk Assessments (ERAs).** Through the authority found in CERCLA and other statutes, the EPA has directed that ecological risk assessments be performed at all National Priority List sites in order to protect wildlife, fisheries, endangered and threatened species and values habitats. During the remedial investiga-

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tion/feasibility study (RI/FS) stages, ecological effects and routes of exposure must be examined so that important impacts and transport pathways are not overlooked, and reasonable estimates are made of health and environmental effects of various remedial alternatives. ERAs require natural resource expertise in site reviews, work plans, reviews of contractor qualifications and final products, as well as remedial action decisions.

22-5 Navy Policy

22-5.1 General

a. **Stewardship.** Responsibility for good stewardship of natural resources shall be an important and identifiable function of all echelons of command management. Procedures shall be established by each command to ensure Navy decision makers are kept informed of the conditions of natural resources, the objectives of NRM plans, and potential or actual conflicts between Navy actions/management plans and the policies/procedures herein. Stewardship shall be recognized as a major requirement in retaining control and use of Navy lands for mission needs.

The policy of the Navy is to act responsibly in the public interest to restore, improve, preserve, and properly utilize natural resources on Navy administered lands. There shall be a conscious and active concern for the inherent value of natural resources in all Navy plans, actions, and programs. Proposals for new and continuing actions that affect natural resources shall be coordinated with the managers of those resources. Recommendations to minimize impacts to natural resources shall be incorporated to the maximum extent practicable.

Since the management of natural resources is inherently a governmental function, the management, implementation, planning and enforcement of Navy NRM programs shall not be included in the DoD Commercial Activities Program or base operating services contracts.

The principles of good stewardship shall also be applied to natural resources not administered by the Navy, preserving resources such as marine mammals, coral reefs, and other resources potentially affected by Navy operations.

b. **Multiple Use.** Natural resources under the jurisdiction of the Navy shall be managed to support the military mission, while practicing the principles of multiple use and sustainable yield, using scientific methods and an interdisciplinary approach.

c. **Ecosystem Management.** It is Navy policy to incorporate ecosystem management as the basis for planning and management of Navy installations. This approach shall take a long-term view of human activities, including military uses, and biological resources as part of the same system. The goal is to preserve and enhance ecosystem integrity, and to sustain both biological diversity and continued availability of those resources for military and other human uses.

Ecosystem-based management shall include:

(1) A shift from single species to multiple species conservation.

(2) Formation of partnerships necessary to consider and manage ecosystems that cross boundaries.

(3) Use of the best available scientific information in decision-making and adaptive management techniques in natural resource management.

d. **Navy NRM Program Goals.** The conservation of natural resources and the military mission need not and shall not be mutually exclusive. Commands shall accomplish the following when managing natural resources on Navy lands:

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(1) Assign specific responsibility, centralized supervision, and professionally trained personnel to this program; and provide natural resource personnel the opportunity to participate in NRM job training activities and professional meetings.

(2) Protect, conserve, and manage the watersheds, wetlands, natural landscapes, soils, forests, fish and wildlife, prime and unique farmland, and other natural resources, as vital elements of an optimum natural resources program.

(3) Manage natural resources to provide outdoor recreation opportunities. This shall be recognized as an important objective in the conduct of all Navy NRM programs.

(4) Utilize and care for natural resources in the combination best serving the present and future needs of the U.S. and its people.

(5) Provide for the optimum use of land and water areas and access thereto while maintaining ecological integrity.

e. **Integrated NRM Plans**

(1) **Authorship.** If preparation of the sections of the NRM plan is beyond the technical capability of an installation, and the installation requests, then the appropriate EFD shall provide assistance, contingent upon funding and manpower availability.

(2) **Consistency with State Non-point Source Plans.** The title page of a land management section shall be offered to the State for signature by an appropriate representative (as an indication of coordination regarding installation consistency with the State non-point source pollution abatement plan) if the host State has an EPA-approved non-point source pollution abatement plan.

(3) **Endorsement.** All management sections of an installation integrated NRM plan shall have a title page endorsed by the installation commanding officer (CO), or his/or her authorized representative, to indicate the installation's commitment to and acceptance/approval of the section and by the CO of the appropriate EFD or his/her authorized representative, to indicate technical approval of the section. Each section shall be re-approved and signed every 5 years. Copies of each NRMP shall be submitted to the major claimant environmental office.

(4) **Recordkeeping and Reporting.** Data shall be maintained by installations and by NAVFACENGCOM to facilitate and ensure the efficient and effective accomplishment of program goals and objectives. Periodic reports shall be required at the discretion of COMNAVFACENGCOM to ensure compliance with legal requirements and to facilitate the implementation and coordination of program responsibilities.

(5) **NEPA Compliance.** With appropriate Federal, State, and local officials with interest or jurisdiction, environmental review in the form of an assessment or statement may be necessary prior to the implementation of projects or proposals formulated by the NRM plan. Environmental review under NEPA shall be conducted per the procedures of Chapter 2. Each annual increment shall be annotated to indicate the existence of a categorical exclusion, finding of no significant impact (FONSI) or record of decision (ROD), or the need for review under NEPA.

f. **Legacy Resource Management Program.** Navy installations are encouraged to participate fully in the DoD Legacy Resource Management Program in order to promote the conservation of biological, cultural, and earth resources under Navy control and to demonstrate a leadership role in protecting the environment.

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g. **Coastal Zone Management**

(1) **Support of State Programs.** The Navy shall support the development and implementation of State coastal nonpoint pollution control programs on Navy lands by identifying nonpoint sources, specifying corrective measures and coordinating nonpoint source compliance efforts with State programs. The Navy shall also identify areas of sensitive natural resources of the coastal zone, minimize the loss or degradation of coastal wetlands, enhance the natural value of wetlands, and protect water quality. The Navy shall encourage research and development efforts to address nonpoint sources of pollution to identify and understand Navy impacts on the coastal and marine environment.

(2) **Consistency with State Programs.** Navy activities shall ensure their operations, activities, projects and programs in or on coastal lands or waters that affect coastal zones, comply with the coastal State's approved management program to the maximum extent practicable, and shall cooperate in resolving concerns identified during the consistency review process.

h. **Partnerships.** Navy activities shall encourage the use of partnerships and volunteers to complete projects under the direction and approval of Navy professional natural resources personnel. Programs that foster pride in accomplishment among volunteers, partners and the Navy are encouraged. Examples of effective partnership programs are Coastal America, Partners in Flight, Student Conservation Association, and the Chesapeake Bay Initiative.

i. **Exotic Organisms.** The Navy shall use its authorities to restrict the introduction of nonnative organisms into natural ecosystems. Section 19-10 Ship Ballast Water and Anchor System Sediment Control provides measures to prevent such introductions.

j. **Ecological Reserve Areas.** Natural areas on Navy lands that warrant special conservation efforts shall be identified. After appropriate study and coordination, such areas may be designated as Ecological Reserve Areas. The integrated NRM plan for the installation shall address management provisions necessary for protection of each area. Special natural areas include botanical, ecological, geological, scenic or research areas. More information about ecological reserves is available from Chapter 5 of NRMPM.

k. **Funding for Natural Resource Programs.** Funding for natural resources management is an important responsibility of Navy commands and shall be included in activity Program Objective Memorandum (POM) submittals. Funds may be available from other sources to supplement portions of these programs such as agricultural outleasing, forestry programs, Sikes Act user fees, and the Legacy Resource Management Program. Activities are cautioned not to rely on any one source to fund stewardship and natural resource compliance programs.

22-5.2 Fish and Wildlife

a. **Endangered species.** The Navy shall review its activities, identify those that may affect Federally listed species or habitats, and consult formally or informally with the appropriate agency. Unless delegated to the activity, formal consultations shall usually be performed by the cognizant EFD/Engineering Field Activity (EFA). Navy installations shall keep EFD/EFA personnel appraised of all planned or ongoing consultations. The Navy shall utilize its authority to enhance the recovery of Federally listed endangered and threatened species and their habitats. Protection of State/territory listed rare and endangered species is not required by legal mandate. However, the Navy encourages cooperation with States and territories to protect such species.

b. **Fish and Wildlife Management.** It is Navy policy to comply with laws for the protec-

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tion and management of wildlife resources, and to develop, where compatible with the mission, programs for the development, enhancement, and use of wildlife resources. Where appropriate, those programs shall be performed under cooperative agreements with State and Federal wildlife agencies.

c. **Enforcement of Resource Protection Laws.** Enforcement of laws, primarily aimed at protecting natural resources (and recreation activities that depend on natural resources) shall be an integral part of a natural resources program and shall be coordinated with or under the direction of the natural resources manager for the affected area.

22-5.3 Land Management

a. **Land Management Section of Natural Resources Management Plan.** When appropriate, land management plans shall address ecosystems, soils, water resources, wetlands and watersheds, estuaries, soil and water conservation, biodiversity, grounds maintenance, nonpoint source pollution control, landscaping, agricultural uses and potential, fire management, insect and disease management, rangeland conditions and trends, management for multiple use, and critical or unique coastal barrier systems, critical habitats and other areas of special interest.

b. **Funding.** Land management is an important use of appropriated funds. Additionally, revenues from the agriculture and grazing outlease program are available for:

(1) Administrative expenses of agricultural leases. (Priority in funding personnel costs shall be given to natural resource professionals directly administering agricultural programs.)

(2) Initiation, improvement, and perpetuation of agricultural outleases.

(3) Preparation and revisions of natural resources management plans.

(4) Implementation of integrated natural resources management plans.

c. **Wetlands.** In order to comply with the national policy to permit no overall net loss of wetlands, commands with land management responsibilities shall ensure the following:

(1) That all facilities and operational actions avoid, to the maximum degree feasible, wetlands destruction or degradation regardless of wetlands size or the legal necessity for a COE permit. Any facility's requirement that cannot be sited to avoid wetlands shall be designed to minimize wetlands degradation and shall include compensatory mitigation as required by wetlands regulatory agencies in all phases of the project's planning, programming, and budgeting process. Within this policy, use of Navy lands and lands of other entities are permissible for mitigation purposes for Navy projects when consistent with EPA and COE guidelines or permit provisions. Requests by non-Navy entities to mitigate for the effects of non-Navy projects on Navy property should be reviewed on a case-by-case basis for their effect on the environment, Navy mission, and appropriateness of economic compensation to the Navy for the long-term use of the site.

(2) That any action significantly affecting wetlands is addressed by the environmental review and public notification process per Chapter 2.

(3) That boundaries of legally defined wetlands, on all Navy lands, are identified and mapped and that the maps are distributed to all potential users, including facilities planners, operational units, and tenant commands.

(4) That adequate NRM expertise is available to installation COs for the protection,

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management, identification, and mapping of wetlands.

(5) That land suitable for establishment or re-establishment of high quality wetlands is identified in all installation NRM plans and master plans. Implementation of wetlands creation or enhancement projects, where compatible with the installation mission, is encouraged.

d. **Nonpoint Source Pollution.** The Navy shall support and accelerate the development and implementation of NPS pollution management programs that ensure water quality protection. Special emphasis shall be placed in preventing NPS pollution from ground disturbing actions (e.g., construction, military training, farming, timber harvesting, and training activities) in shoreline/streamside areas. Installations that control land areas shall evaluate the scope of nonpoint source pollution with assistance from COMNAVFACENGCOM EFDs and EFAs. Land management sections of an installation's NRM plan should be used as a primary tool for identifying NPS, specifying corrective measures, and coordinating nonpoint source compliance planning with State coastal and nonpoint source programs.

e. **Prime and Unique Farmlands.** Navy installations shall identify and take into account the adverse effects of their actions on the protection of farmlands. Alternative actions that lessen such adverse effects shall be given full consideration.

22-5.4 Forest Management

a. **Management of Navy Forests.** Forest management that accommodates and improves the economic and ecological value, wealth and diversity of the forest conserves natural resources through wise use, provides financial returns to the government and contributes commercial forest products to the economy. It is Navy policy that forest lands shall be intensively managed for restoration, enhancement and improvement of forest resources. This shall be accomplished through an active program of professional forest management, based on soil-site capabilities, in a multi-disciplinary, ecologically sound manner commensurate with the forest resources and species. Navy forest management shall include harvest, reforestation, afforestation and silvicultural treatments that shall foster forest health and vigor, structural and biological diversity, and regeneration and plant community succession.

b. **Use of Clearcutting.** Clearcutting as a standard harvest management practice shall be used only where it is essential to meet specific forest plan objectives as defined in the installation-specific integrated natural resources management plan. Judicious use of alternative harvest methods, in lieu of clearcutting, shall be implemented whenever possible.

c. **Old-Growth Forests.** The harvest of old-growth timber shall be determined on the basis of balanced economic, social, and environmental values that are identified during the management/planning process. To the extent practicable, old-growth forests should be reserved in their natural state to preserve their biological, scientific, and aesthetic benefits.

22-5.5 Environmental Restoration

a. **Natural Resources Trusteeship.** In the carrying out of natural resource trustee responsibilities, Navy components shall:

(1) Provide for natural resource expertise in contingency planning.

(2) Utilize natural resource professionals to evaluate impacts of oil and hazardous substance spills and releases and to assist in appropriate response.

(3) Develop mitigation plans in response to Navy spills and spills on Navy lands.

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(4) Coordinate with other appropriate trustees.

(5) Assess natural resource damages, as appropriate, to mitigate spill impacts to natural resources on Navy lands.

b. **Ecological Risk Assessment.** Natural resources professionals familiar with the site shall be utilized to assist in assessing the ecological risks in site cleanup decisions. Where sensitive habitats are involved, they shall also review sites and work plans, evaluate contractor qualifications, and assist in remedial action and site restoration planning.

22-5.6 Training. Every person preparing, implementing, supervising and managing Natural Resources programs shall receive Environmental and natural resources training outlined in Chapter 24 of this instruction, shall receive comprehensive natural resources training specific to their job assignment, and shall be familiar with the provisions of this chapter and the procedures outlined in the NRMPM. Continued professional training shall be an integral part of responsible natural resources management.

22-6 Responsibilities

22-6.1 Deputy Chief of Naval Operations (DCNO) (Logistics) shall:

a. Ensure an adequate, Navy-wide organizational capability and the programming of resources necessary to establish and maintain an integrated, natural resources program.

b. Provide policy in order to establish and maintain a program for the management, conservation, and enhancement of natural resources on Navy lands.

c. Ensure resolution of natural resources issues in support of all aspects of the Navy mission.

d. Assign a representative to serve on the Defense Natural Resources Council.

e. Coordinate pertinent aspects of the Navy Natural Resources Program and issues with headquarters elements of other Federal agencies, other military services, and private organizations.

f. Ensure natural resources program staffing, grades, and organizational alignment receive the same high priority as other staff elements responsible for environmental compliance and stewardship.

22-6.2 COMNAVFACENGCOM shall:

a. Provide adequate professional staffing, and maintain a program for integrated management, conservation, and enhancement of natural resources on Navy lands including, but not limited to:

(1) Managing and conserving the soil, water, forests, land, grounds, fish and wildlife, wetlands and flood-plains, and natural areas.

(2) Staffing recommendations for natural resources personnel.

(3) Evaluating and incorporating new methods and procedures in the preservation, management, and enhancement of natural resources.

(4) Coordinating NRM requirements with other Federal, State, or local professional authorities, including all Section 7 consultations under the ESA.

(5) Determining the potential for NRM programs on installations that contain land and water areas suitable for the conservation and management of natural resources.

(6) Gathering information from installations to satisfy program reporting requirements.

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b. Issue and coordinate the program management guidance and services required, and issue appropriate Navy-wide instructions for implementation of integrated NRM.

c. Resolve natural resources impact issues in support of the environmental impact analysis process.

d. Ensure that current and planned mission activities (e.g. master planning, construction requests, site approval requests, and training exercise plans) are effectively coordinated in a timely manner with appropriate natural resources managers.

e. Ensure that the NRM program is evaluated as part of Environmental Compliance Evaluations (ECEs) as described in Chapter 20.

f. Provide functional sponsorship for funding and support for the establishment and maintenance of the DON natural resources data base.

g. Provide necessary guidance to ensure that applicable cooperative agreements, plans, and MOUs are entered into, and executed by, commanders/COs at appropriate levels of command.

h. Provide technical assistance to area commanders and installations in carrying out their responsibilities as natural resource trustee.

i. Provide technical assistance to Marine Corps installations, upon funded request.

22-6.3 Major claimants and intermediate commands shall:

a. Require, ensure, and assist subordinate installation's NRM planning and program implementation, including compliance with applicable instructions, laws, directives, etc.

b. Programs and budget resources to fund both routine and recurring costs to operate and maintain NRM planning and program implementation.

c. Ensure that subordinate installation COs act as trustee for natural resources under their jurisdiction. Promote cooperative projects with Federal, State, and local organizations.

d. Ensure that effective NRM is an identifiable function, and is specifically accountable in performance evaluations, at each command level.

e. Ensure that installation NRM programs are evaluated as part of ECEs (see Chapter 20).

f. Ensure that adequate NRM expertise is available to installation COs for the protection, management, identification, and mapping of wetlands.

g. Ensure that contracts for operation of Government Owned, Contractor Operated (GOCO) installations include provisions for complying with policies and procedures as prescribed in this chapter and instruction.

h. Include NRM program effectiveness as an inspection item during an Immediate Superior In Command (ISIC) inspection of activities having land and water areas suitable for NRM programs.

i. Maintain records necessary to monitor and evaluate natural resources under their management, and provide requested information to agencies with jurisdiction and to the public.

j. Take appropriate action necessary to assure that actions authorized, funded, or carried out comply with the ESA.

k. Coordinate proposals for new and continuing actions that affect natural resources with the managers of those resources.

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l. Review and approve all memorandums of understanding, cooperative agreements and integrated NRM plans.

22-6.4 Commanding officers of shore activities holding Class 1 plant accounts shall:

a. Act as trustee for natural resources under their jurisdiction, develop and maintain an effective conservation program as outlined in this instruction, and use technical assistance from the EFDs as necessary.

b. Integrate natural resources requirements into the day-to-day decision-making process.

c. Request funding sufficient to ensure support of an integrated program as prescribed by this chapter and the NRMPM.

d. Ensure preparation of integrated management sections of comprehensive NRM plans and systematically apply the conservation practices set forth in such sections.

e. Appoint, by letter, an installation NRM program manager whose duties include ensuring that the CO is informed regarding: natural resources issues, conditions of natural resources, objectives of NRM plan sections, and potential or actual conflicts between mission requirements and natural resources mandates.

f. Implement programs to reduce the potential for collisions between aircraft and birds or other animals if the installation has a flying mission.

g. Ensure that information copies of all applications or any other decision document(s) or proposal document(s) to fill or create a wetland are forwarded to CNO (N45) via the chain of command. The purpose of this requirement is to monitor the Navy-wide status regarding "no overall net loss of wetlands" policy compliance. (Refer to paragraph 22-4.3a).

h. Ensure incorporation of soil and water conservation measures and landscaping in the preliminary engineering, design, and construction of facilities involving ground disturbance in coordination with EFDs. Ensure that state-approved erosion prevention/control measures are included as requirements in the specifications for all ground disturbing construction projects. Include these costs as a specific item in new project investigations and preliminary engineering reports.

i. Review all non-excess land to identify areas that may be suitable and available for agricultural outleasing or commercial forestry. The results of this review shall be documented as described in Chapters 2 and 3 of NRMPM.

j. Enter into fish and wildlife cooperative plans that may be developed on behalf of the Secretary of Defense as required by the Sikes Act.

k. Seek the aid of, and coordinate the NRM program with, Federal, State, and local agencies.

l. Coordinate proposals for new and continuing actions that affect natural resources with the managers of those resources.

m. Conduct surveys and other appropriate actions as necessary to document the presence of threatened or endangered species, to identify currently used and periodically/indirectly used habitat for these species and to assist in the determination of whether any such habitats should be considered for designation as "critical habitat". Surveys shall also be conducted to determine presence and distribution of proposed threatened and endangered species, species under review for threatened or endangered status (Category 1 and 2 candidate species), and State/territory rare and endangered species.

n. Request the appropriate EFD NRM function to conduct necessary consultations under the ESA with the USFWS and/or NMFS.

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o. Take appropriate action to avoid direct or indirect adverse impacts of new construction on wetlands.

p. Ensure that any action affecting natural resources is given proper consideration in the environmental review and public notification process (see Chapter 2).

q. Maintain records necessary to monitor and evaluate natural resources under their management, and provide requested information to agencies with jurisdiction and to the public.

r. Ensure that natural resources management principles are integrated with environmental protection programs to coordinate an effective overall environmental program.

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CHAPTER 23

HISTORIC AND ARCHEOLOGICAL RESOURCES PROTECTION

23-1 Scope

23-1.1 General. This chapter states Navy policy regarding the protection of historic and archeological resources and establishes Navy responsibilities under pertinent legislation. It conforms with reference (e), which provides policy and assigns responsibilities for the management of historic and archeological resources under DON control.

23-1.2 Applicability. Historic and archeological resources protection requirements apply to all properties under the control of the DON by ownership, lease, or similar instrument that are located in the United States, the District of Columbia, and the commonwealths, territories and possessions of the U.S. Waters contiguous to land areas may contain archeological resources and historic Navy properties or may be significant due to a historical event; therefore, this instruction applies to land and water areas under direct control of the Navy and to submerged historic properties owned by the Navy. Activities in foreign countries shall manage their historic and archeological resources per Chapter 18.

23-1.3 References. Relevant references are:

a. 32 CFR 229, Protection of Archaeological Resources: Uniform Regulations;

b. 36 CFR 79, Curation of Federally-owned and Administered Archeological Collections;

c. 36 CFR 800, Protection of Historic and Cultural Properties;

d. DoD Directive 4710.1 of 21 June 1984, Archeological and Historical Resources Management; (NOTAL)

e. SECNAVINST 4000.35, Navy Cultural Resources Program; (NOTAL)

f. 48 Federal Register 44716, Archeology and Historic Preservation, Secretary of the Interior's Standards and Guidelines;

g. 53 Federal Register 4742, Guidelines for Federal Agency Responsibilities under section 110 of the National Historic Preservation Act.

23-2 Legislation

23-2.1 American Indian Religious Freedom Act (AIRFA). AIRFA requires Federal agencies to consult with native traditional religious leaders and to consider, but not necessarily defer to, Native American religious values. Agencies should permit access to religious sites, when possible.

23-2.2 Antiquities Act of 1906. The Antiquities Act requires the issuance of permits for study, removal, or excavation of any ruins, sites, structures, or objects of historic or scientific interest.

23-2.3 Archaeological Resources Protection Act (ARPA). ARPA requires the issuance of permits for authorized professional excavation or removal of archeological resources. ARPA imposes civil and criminal penalties for unauthorized excavation, removal, damage, alteration or defacement of archeological resources or attempts to perform such unauthorized acts.

23-2.4 National Historic Preservation Act (NHPA). NHPA requires an expanded National Register of Historic Places (National Register) and establishes the Advisory Council on Historic Preservation (Advisory Council). Section 106 of

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the Act requires Federal agencies to allow the Advisory Council an opportunity to comment whenever their undertakings may affect National Register resources or resources that are eligible for listing on the National Register. Section 110 of the Act requires Federal agencies to identify, evaluate, inventory, and protect National Register resources (or resources that are eligible for listing on the National Register) on properties that they control. NHPA imposes no absolute preservation requirement, as long as mandated procedures are followed and documented in any Navy decision not to preserve.

23-2.4.1 The National Register of Historic Places. NHPA authorizes the Secretary of the Interior to maintain a National Register that lists sites, districts, buildings, structures, and objects of significance in American history, architecture, archeology, engineering, and culture. National Register resources may be of local, State, or national significance. Each Federal agency is authorized to include preservation costs of National Register resources as eligible project costs for all undertakings. The Navy's Historic and Archeological Resources Protection (HARP) Program does not ordinarily apply to resources that fail to meet published National Register criteria.

23-2.5 Native American Grave Protection and Repatriation Act (NAGPRA). NAGPRA requires each Federal agency to summarize and inventory Native American human remains, funerary objects, sacred objects, and cultural items in their collections; to identify relationships of these objects with descendant Native Americans; and to negotiate their disposition in consultation with related, Federally recognized, culturally affiliated Indian tribes.

23-3 Terms and Definitions

23-3.1 Advisory Council on Historic Preservation. An independent Federal agency charged with advising the President, Congress and Federal agencies regarding historic and archeological resources protection.

23-3.2 Archeological Resources. Material remains of past human life that are capable of contributing to scientific or humanistic understanding of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques.

23-3.3 Cultural Resources. A generic term commonly used to include buildings, structures, districts, sites, objects of significance in history, architecture, archeology, engineering, or culture. The term also includes associated documents and records.

23-3.4 Cultural Resources Coordinator. A staff person without the professional qualifications of a cultural resources professional who performs routine cultural resources compliance functions (often as a collateral duty), and contracts out for professional expertise as needed for specific projects.

23-3.5 Cultural Resources Professional. A qualified anthropologist, archeologist, architectural historian, historical architect, historian, or preservation planner with specialized training/experience in Federal preservation legislation compliance.

23-3.6 Indian Tribe. Any Tribe, band, nation, or other organized group or community, including any Alaska native village that is recognized by the Bureau of Indian Affairs as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

23-3.7 Memorandum of Agreement (MOA). Written product of Section 106 consultation, signed by the Navy, the State Historic Preservation Officer (SHPO) and the Advisory Council that resolves incompatibilities between a Navy undertaking and preservation requirements by stipulating measures to reduce adverse effects or

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accepts adverse effects as being unavoidable and in the public interest.

23-3.8 National Historic Landmark. A National Register resource designated by the Secretary of the Interior as having exceptional significance in the nation's history and which is subject to the most stringent preservation requirements.

23-3.9 National Register Resource. Broad concept that includes all resources that meet National Register significance criteria, even if the resources have not been formally registered, identified or acknowledged as significant. Current Federal regulations use the term "historic property" as a synonym for National Register resource. Regulations set the criteria for definition of a historic property. Structures 50 years old or more should be considered potentially eligible for listing on the National Register.

23-3.10 Native American. An Indian, Native Hawaiian, or Native Pacific Islander.

23-3.11 Native Hawaiian. Any descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

23-3.12 Overview. Literature search and surface inspection, including inspection of erosion cuts, performed by a cultural resources professional, to determine the likelihood that any National Register resources may be present.

23-3.13 Programmatic Agreement. Written agreement among the Navy, the SHPO, and the Advisory Council that streamlines Section 106 consultation requirements and stipulates how an entire program or class of undertakings repetitive in nature or similar in effect will be carried out so as to avoid or mitigate adverse effects.

23-3.14 Recordation. Measured drawings, photographs and other techniques permanently recording National Register resources that must be destroyed or substantially altered. Recordation must meet the standards of the Historic American Buildings Survey/Historic American Engineering Record (HABS/HAER), as administered by the appropriate regional office of the National Park Service.

23-3.15 Significance or Significant. Those attributes or characteristics of a resource that make it valuable, usually determined by National Register eligibility criteria.

23-3.16 State Historic Preservation Officer (SHPO). Official appointed by the governor of each State and territory, responsible for administering cultural resources programs within a given jurisdiction.

23-3.17 Undertaking. Any Federal, Federally assisted, or Federally licensed action, activity, or program, new or continuing, that may have an effect on National Register resources and therefore triggers Section 106 consultation responsibilities.

23-4 Requirements

23-4.1 Advisory Council Process; NHPA Section 106

23-4.1.1 General. At the earliest planning stages of any undertaking that may affect a National Register resource, the agency will initiate interagency consultation procedures by contacting the SHPO, explaining the undertaking, its area of potential affect, and a preliminary determination on whether or not National Register Resources will be affected.

23-4.1.2 Determination of No Adverse Effect. If the agency and SHPO concur that there will be an effect but it will not be adverse, the agency will send supporting documentation to the Advisory Council staff. The Advisory Council staff has 30 days in which to file an objection. If the Advisory Council staff does not object, the undertaking may proceed.

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23-4.1.3 Determination of Adverse Effect. If the Advisory Council staff objects to a determination of no adverse effect, or if the SHPO or the agency determines that there is an adverse effect, then the agency will initiate formal consultation to consider alternatives. A MOA may be negotiated that allows the undertaking to proceed after specified mitigation actions are implemented.

23-4.1.4 Failure to Agree. In case of a failure to agree on conditions for accepting or mitigating the adverse effect, after all other procedures specified in current regulations have been followed and documented, the agency will afford the full Advisory Council an opportunity to comment.

After taking the Advisory Council's comments into consideration, the Secretary of the Navy may formally notify the Advisory Council that the undertaking will proceed, in the public interest, without agreement having been reached regarding alternative courses of action or mitigation measures to be taken.

23-4.2 Managing National Register Resources; NHPA Section 110

23-4.2.1 General. Each Federal agency is required to establish a preservation program for the identification, evaluation, nomination, and protection of National Register resources. Federal agencies will ensure that such resources are not inadvertently transferred, sold, demolished, substantially altered, or allowed to deteriorate significantly. Agencies are required to manage and maintain National Register resources in a way that considers the possible preservation of their historic, archeological, architectural and cultural values, in coordination with Section 106 and other preservation legislation. Agencies' preservation-related activities must be carried out in consultation with other Federal, State and local agencies, Indian tribes, Native Hawaiian organizations engaged in historic preservation planning, and with the private sector. Failure to identify resources that meet National Register criteria does not exempt an agency from any legal responsibilities.

23-4.2.2 Phased Compliance. All military land holdings will be surveyed by a cultural resources professional to locate National Register resources. This may be accomplished in phases. Phase One is a historic and archeological resources overview of an entire installation or complex to delineate probable areas, if any, for the existence of cultural resources. Phase Two, usually carried out as part of Section 106 compliance, consists of detailed surveys to identify National Register resources that may be affected by an agency undertaking. Finally, as funds become available, detailed National Register nomination forms are completed, in coordination with the SHPO, and resources are nominated to the Keeper of the National Register (via the appropriate Navy chain of command).

23-4.2.3 Use of Historic Structures. Federal agencies will use available historic buildings prior to new construction, lease, or any acquisition of a building for the purpose of carrying out its responsibilities.

23-4.3 National Historic Landmarks

23-4.3.1 General. NHPA Section 101(a)-(1)(B) provides for inclusion of National Historic Landmarks in the National Register. Section 110(f) affords landmarks more stringent protection than other National Register resources. Federal regulations outline procedures for consultation with the SHPO and the Advisory Council, and possible National Park Service (NPS) review, in order to minimize harm to landmarks from Federal agency undertakings.

23-4.3.2 Monitoring of National Historic Landmarks. The NPS maintains a continuing relationship with owners of National Historic Landmarks. Agencies will cooperate in periodic visits or contacts with SHPOs and other appropriate means that the NPS uses to compile its

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annual report to Congress on threats to the integrity of landmarks, to advise agencies concerning accepted preservation standards, and to update administrative records on landmark properties. The Department of the Interior provides an annual report to Congress on damaged or threatened National Historic Landmarks.

23-4.3.3 Landmark Designation Actions. Although property owners and SHPOs may nominate National Historic Landmarks, designation ordinarily occurs after a study by the NPS. Preservation is not absolutely required, as long as mandated procedures are followed and documented in any decision not to preserve.

23-4.4 Archeological Permits. Any person proposing to study, remove, and/or excavate archeological resources from public lands will request a permit under the Antiquities Act and/or ARPA. Permit requests must explicitly address and ensure professional curation of removed artifacts.

Permits for archeological work on Navy lands will be issued by NAVFACENGCOM Engineering Field Divisions (EFDs) in consultation with affected commands and preservation agencies. In cases where the Navy contracts with an archeologist (or a Navy contractor subcontracts with an archeologist) to perform archeological work for the Navy, a brief compliance statement in the contract or subcontract will be considered the equivalent of a permit. In cases where employees of the Navy perform archeology on Navy lands, legal permitting requirements will be satisfied by ensuring that such employees are professionally qualified archeologists (as defined by current Federal regulations).

23-4.5 Interagency Exchange of Information. Every Federal land manager, when requested by State and Federal preservation agencies, is to supply such information as is necessary concerning programs and projects for historic and archeological resources protection. Records will be kept to facilitate responses to such requests for information. It should be noted that ARPA and NHPA mandate caution, and in some cases confidentiality, regarding cultural resources information about archeological sites.

23-4.6 Public Exchange of Information. ARPA and NHPA authorize public officials to withhold disclosure of information from the public regarding the location and character of a historic or archeological resource if disclosure potentially could risk harm to the historic resource. The Freedom of Information Act (FOIA) Exemption b(3) (NHPA 16 U.S.C. 470w-3, and ARPA 16 U.S.C. 470hh) permits the restriction of such information. Every command that manages an inventory of cultural resources will develop an explicit policy regarding cultural resources information that may be released or restricted and who may have access.

23-4.7 Professional Standards and Qualifications; NHPA Section 112. Each Federal agency will ensure that all preservation actions meet professional standards in archeology, architecture, conservation, curation, history, landscape architecture, and planning. Agencies are also required to ensure that agency personnel and contractors responsible for historic and archeological resources will meet professional skills and expertise qualifications established by the Secretary of the Interior and professional societies of the disciplines involved.

23-5 Navy Policy

23-5.1 Navy Policy is to:

a. Incorporate preservation considerations into routine DON management of historic buildings, districts, sites, ships, aircraft, and other cultural resources. Preservation-specific materials and techniques shall be used to achieve cost-effective cultural resources stewardship.

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b. Initiate timely consultation with SHPOs, the Advisory Council on Historic Preservation, Native Americans, Native Hawaiians, other interested agencies, and the public whenever the DON conducts or supports undertakings that may affect any National Register property. The Navy retains ultimate authority over treatment and use of its National Register properties.

23-5.2 Recordkeeping

Historical Archeological Restoration Program (HARP) Plans. Navy activities shall have knowledge of National Register resources located on or adjacent to Navy lands. Beginning with Phase One overviews and updating to include information gathered in Phase Two and later survey work, shore activities shall develop and implement HARP plans that:

a. Identify the areas of probability for National Register resources, based on overviews and surveys performed by cultural resources professionals.

b. Contain an evaluation and inventory of all known historic and archeological resources on Navy lands or resources that are eligible for listing on the National Register.

c. Recommend priorities and describe applicable legal compliance strategies that avoid potential conflicts between Navy mission and preservation mandates.

d. Prescribe specific compliance actions to be taken if Navy undertakings affect National Register resources.

e. Develop plans in consonance with State and Federal preservation programs and other Navy planning documents and processes.

f. Draft and final HARP plans shall be endorsed by the major claimants environmental office via the chain of command.

g. After endorsement by the major claimant environmental office, the finalized HARP Plan shall be signed by the installation commander, SHPO, and supporting Engineering Field Division (EFD). A copy of the finalized signed HARP Plan shall be forwarded to the major claimant environmental office.

23-5.3 Training

Every person preparing, implementing, supervising and managing cultural and historic resources programs shall have received Environmental and Natural Resources training outlined in Chapter 24 of this instruction, shall have received comprehensive cultural and historic resources training specific to his or her job assignment, and shall be familiar with the provisions of this chapter.

23-6 Responsibilities

23-6.1 Deputy Chief of Naval Operations (DCNO) (Logistics) shall:

a. Provide guidance for cultural resources programs related to historic and archeological resources at Navy shore installations, historic ships in the inactive fleet, and cultural resources aspects of Navy environmental programs. As resource sponsor, the DCNO (Logistics) provides fiscal support for qualified cultural resources staffing, training, surveys, plans, and other management requirements to achieve compliance with applicable statutes, regulations, and instructions.

b. Establish a Navy-wide HARP program.

c. Designate a qualified staff person to oversee and coordinate the Navy's cultural resources programs.

d. Identify Navy-wide priorities for historic and archeological resources surveys and other stewardship actions so as to achieve compatibility with Navy missions and budgets.

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e. Provide guidance on implementation of cultural resources policy and advise all levels of command regarding compliance with cultural resources legislation, regulations, and professional standards.

f. Review interagency cultural resources agreements and National Register nominations, as recommended by subordinate commands, and prepare nominations for Office of Assistant Secretary of Navy (Installation & Environment) (OASN (I&E)) signature.

g. Coordinate interagency consultation concerning cultural resources: at historic shore installations, in the inactive fleet, underwater, or affected by Navy programs.

h. Ensure full coordination with Marine Corps and other military services to avoid duplication.

i. Coordinate response(s) to Congressional inquiries and requests for cultural resources information from Federal, State or private interests.

23-6.2 COMNAVFACENGCOM shall:

a. Act as principal advisor for the Navy in matters related to historic buildings, structures, sites and districts.

b. Designate specific qualified staff to perform historic and archeological resources protection functions.

c. Maintain a list of the Navy's National Register resources and a record of undertakings affecting them.

d. Provide technical assistance to identify, evaluate, inventory, nominate, plan, maintain, and protect historic and archeological resources under Navy control.

e. Cooperate with SHPOs and other preservation officials in their regions so as to expedite Navy projects and programs affecting historic and archeological resources.

f. Assist activities in negotiating MOAs and Programmatic Agreements that both protect historic and archeological resources and facilitate Navy projects and programs.

g. Provide technical and legal support in resolving questions related to legal preservation requirements, as requested.

h. Provide information about preservation training opportunities and guidance concerning appropriate preservation procedures, techniques and material.

i. Process applications for and issue ARPA permits authorizing professional excavation and removal of archeological resources, as appropriate.

23-6.3 COMNAVSEASYSCOM shall:

a. Manage certain shore activities, historic ships afloat, and historic ships in the inactive fleet, and coordinate with other commands.

b. Fully comply with the NHPA and other legislation applicable to stewardship of historic and archeological resources under NAVSEASYSCOM control.

c. Coordinate with the Naval Historical Center for the protection, preservation, and management of historic ships afloat and historic ships in the inactive fleet and other historic artifacts under NAVSEASYSCOM control.

d. Designate and train qualified staff responsible for compliance actions regarding historic and archeological resources.

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23-6.4 COMNAVAIRSYSCOM shall:

a. Manage certain shore facilities and historic inactive aircraft and coordinate with other commands.

b. Comply fully with the NHPA and other legislation applicable to routine stewardship of historic and archeological resources and protection from the effects of undertakings.

c. Coordinate with the Naval Historical Center for the protection, preservation, and management of historic inactive aircraft and other related historic artifacts under their control.

d. Designate and train qualified staff responsible for compliance actions regarding historic and archeological resources.

23-6.5 Major claimants, through subordinate commands, as applicable shall:

a. Program, budget and allocate funds for qualified staffing, training, surveys, plans, and studies to facilitate the identification, evaluation, inventory, planning, maintenance, and protection of National Register resources at activities under their cognizance.

b. Revise instructions and other appropriate documents, if necessary, to reflect requirements of this chapter.

c. Ensure subordinate commands and shore installations, as applicable, designate and train a cultural resources coordinator responsible for compliance with applicable cultural resources laws, regulations and policy.

23-6.6 Director, Naval Historical Center shall:

a. Act as principal advisor for the Navy in matters related to historic naval ships, shipwrecks, and aircraft.

b. Designate a qualified professional to oversee and coordinate the Navy's cultural resources programs related to historic ships, shipwrecks, and aircraft.

c. Ensure that all staff persons who deal with cultural resources are provided with cultural resources training.

d. Identify priorities for historic ship and aircraft surveys, inventories, and other stewardship actions so as to achieve compatibility with missions and budgets.

e. Advise all levels of commands having historic ships and aircraft regarding compliance with cultural resources legislation, regulations, and professional standards.

f. Review interagency agreements and National Register nominations of historic ships, shipwrecks, and aircraft as recommended by subordinate commands, and prepare nominations for OASN(I&E) signature.

g. Negotiate MOAs and Programmatic Agreements that protect, preserve, and manage naval shipwrecks and aircraft wrecks as historic properties or archeological resources.

h. Process applications for and issue ARPA permits authorizing professional excavation of historic naval shipwrecks and aircraft wrecks and removal of submerged archeological materials, as appropriate.

23-6.7 Commanding officers of shore activities shall:

a. Plan, program, and budget for adequate compliance with historic and archeological resources protection legislation that applies to resources under their control.

b. When warranted by the existence of historical and/or archeological resources, desig-

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nate and train a staff person to serve as Cultural Resources Coordinator.

c. Provide for the professional identification, evaluation, inventory, nomination, and protection of resources under their control that appear to be eligible for the National Register.

d. Ensure that all legally mandated procedures are followed if National Register resources under their control are to be transferred, sold, demolished, substantially altered, or allowed to deteriorate significantly.

e. Develop and implement a HARP plan that is integrated with other planning documents and routine procedures applicable to activity projects and programs.

f. Consult with the SHPO and the Advisory Council whenever proposed undertakings may have an effect on National Register resources, and enter into MOAs regarding mitigation of such effects.

g. Ensure that inadvertently discovered accheological resources are protected at the site of discovery until the Department of Interior, Office of Departmental Consulting Archeologists has been notified and cultural resource professionals have evaluated their significance and advised regarding protection or recovery.

h. Use historic buildings when available and practical instead of new acquisition(s), construction, or leasing to satisfy mission requirements.

i. Ensure that funds budgeted for historic preservation are applied to National Register resources.

j. Provide for storage and professional curation of salvaged archeological resources. Provide for storage of records that might accrue in carrying out legal compliance actions.

23-6.8 DON commands, activities and other components in foreign countries shall:

a. Take into account the effect of any Federal undertaking outside the United States that may directly or adversely affect a property that is on the World Heritage List or on the applicable country's equivalent of the National Register.

b. Take into account applicable provisions of status of force agreements, international agreements, Admiralty law.

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CHAPTER 24

ENVIRONMENTAL AND NATURAL RESOURCES TRAINING

24-1 Scope

This chapter outlines the level of training readiness required for Navy personnel (including military personnel, and civilian employees of non-appropriated fund activities) to comply with Federal, State, and local laws and regulations as they pertain to environmental and natural resources issues. The training in this chapter is implemented in reference (y).

This chapter is applicable to shore and afloat commands (including aviation commands), for the training, briefing,. and orientation of personnel assigned to key environmental positions. Additionally, it directs all hands training, in order that newly reporting personnel are provided with a meaningful environmental and natural resources overview.

24-1.1 Detailed Training Requirements. Environmental awareness is an essential part of command personnel training and development programs. Detailed training requirements are identified for the following shore and afloat personnel: commanding officers, executive officers, staff civil engineers, department heads, environmental officers, managers, coordinators, and planners, National Environmental Policy Act (NEPA) coordinators, natural resources managers, environmental engineers, staff judge advocates and station Office of General Council (OGC) attorneys, natural resources personnel, public works officers, officers in charge of construction/regional officers in charge of construction (OICC/ROICC), and remedial project managers. Civilian masters of Military Sealift Command (MSC) ships are considered commanding officers with regard to all training requirements, unless otherwise directed by Commander, MSC (COMSC). Broad guidance for the training of Naval Reservists is also provided.

Commanding officers are reminded that while formal school training is desired when possible, a comprehensive command environmental and natural resources training program can address requirements in most cases.

24-1.2 Chapter Subjects. Each chapter of this manual describes a different area of the environmental and natural resources program. Specific training mandated by law or regulation is included in individual technical chapters where applicable.

24-1.3 References. Relevant references are:

a. 7 CFR 658, Farm Land Protection Policy Act;

b. 29 CFR 1910.120, Occupational Safety and Health Administration (OSHA) Regulations on Hazardous Waste Operations and Emergency Response (HAZWOPER);

c. 29 CFR 1910.1200, Hazardous Communication (HAZCOM);

d. 32 CFR 265, Natural Resources Management Program;

e. 32 CFR 775, DON Procedures for Implementing the National Environmental Policy Act;

f. 33 CFR 154-155. Oil Pollution Prevention Regulations For Vessels and Marine Oil Transfer Facilities;

g. 36 CFR 800, National Historic Preservation Act (NHPA) Regulations for the Protection of Historic and Cultural Properties;

h. 40 CFR 6, EPA Regulations on Implementation of National Environmental Policy Act Procedures;

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i. 40 CFR 61, Subpart M National Emission Standard for Asbestos;

j. 40 CFR 125, EPA Regulations on Criteria and Standards for the National Pollutant Discharge Elimination System;

k. 40 CFR 130, EPA requirements for Water Quality Planning and Management;

l. 40 CFR 141-143, EPA National Drinking Water Regulations;

m. 40 CFR 162, EPA Regulations on Insecticide, Fungicide, and Rodenticide use;

n. 40 CFR 172, Subpart H Training;

o. 40 CFR 254, Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities;

p. 40 CFR 260-272, Hazardous Waste Regulations;

q. 40 CFR 280, Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks;

r. 40 CFR 300, EPA National Oil and Hazardous Substances (OHS) Pollution Contingency Plan under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980;

s. 40 CFR 350, 355, 370, and 372, EPA Regulations on the Emergency Planning and Community Right-to-Know Act (EPCRA);

t. 40 CFR 760-761, EPA Regulations for Controlling Polychlorinated Biphenyls (PCBs);

u. 49 CFR 171-177, Hazardous Materials Regulations;

v. 50 CFR 17.11 and 17.12, Fish and Wildlife Service List of Endangered and Threatened Wildlife and Plants;

w. 50 CFR 10, 18, 216, 228, Regulations Concerning Marine Mammals;

x. 50 CFR 402, Regulations Concerning Interagency Cooperation;

y. NTP X-90-9201, Environmental and Natural Resources Navy Training Plan; (NOTAL)

z. OPNAVINST 5100.19C, Naval Occupational Safety and Health Manual for Forces Afloat; (NOTAL)

aa. OPNAVINST 5100.23D, Navy Occupational Safety and Health Program Manual; (NOTAL)

bb. DoD Overseas Environmental Baseline Guidance Document (OEBGD) of Oct 1992 (NOTAL).

24-2 Legislation

Some training requirements are specified and "explicitly mandated" by environmental laws or implementing regulations. Other training requirements are "implicitly required". That is, training is not specifically required by the laws or regulations. However, it would be highly improbable that personnel could comply with the requirements without having received training. Legislation applicable to environmental and natural resources training (implicit and explicit) is summarized by topic in the following paragraphs.

24-2.1 Clean Air Act (CAA). The CAA contains explicit requirements for training for air quality program managers, in order to ensure activity compliance. Refer to Chapter 5.

24-2.2 Coastal Barrier Resources Act of 1982. Restricts Federally subsidized development of undeveloped coastal barriers along the coasts of the United States.

24-2.3 Conservation Programs on Military Reservations (Sikes Act). Requires each military installation to manage natural resources, to ensure

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professional services are provided that are necessary for management of fish and wildlife resources on each installation, and to provide their personnel with professional training in fish and wildlife management.

24-2.4 Emergency Planning and Community Right-to-Know Act (EPCRA). Training to ensure compliance with requirements is implied.

24-2.5 Endangered Species Act (ESA). Provides for the protection of threatened and endangered species of fish, wildlife, and plants and their critical habitats.

24-2.6 Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). FIFRA explicitly requires certification of pesticide applicators after training has been completed. Training is implied for the remainder of personnel involved in compliance.

24.2.7 Federal Water Pollution Control Act as amended by the Clean Water Act of 1977 (CWA). The CWA contains implied training requirements with regard to CWA compliance. Regulations implementing the CWA contain specific training requirements for operators of water treatment plants.

24-2.8 Fish and Wildlife Conservation Act. Provides for conservation, protection, restoration, and propagation of certain species; including migratory birds threatened with extinction. Training requirements are implied.

24-2.9 Fish and Wildlife Coordination Act. Provides for effective integration of fish and wildlife conservation programs with Federal water resource development and construction projects having an impact on water resources.

24-2.10 Hazardous Material Transportation Act (HMTA). HMTA requires training for personnel who prepare hazardous material (HM)/hazardous waste (HW) for shipment, or who ship or receive HM/HW.

24-2.11 Hazardous and Solid Waste Amendments (HSWA). HSWA explicitly requires all owners/operators of underground storage tank (UST) systems to have comprehensive regulatory programs. An implicit training requirement exists for understanding and compliance with this legislation.

24-2.12 Marine Mammal Protection Act (MMPA). Protects marine mammals and establishes a marine mammal commission.

24-2.13 Migratory Bird Treaty Act. Prohibits taking or harming a migratory bird and certain other birds, its eggs, nests, or young without the appropriate permit.

24-2.14 National Environmental Policy Act (NEPA). In order to achieve/maintain compliance with the Act, there is implied training for senior activity managers, even though these managers are not necessarily those who develop project documents.

24-2.15 National Historic Preservation Act (NHPA). NHPA defines Federal activities' responsibility to preserve historic buildings. Compliance with this act implies training for program managers.

24-2.16 Occupational Safety and Health Act (OSHA). OSHA regulations require training for personnel who use HM in the performance of work, and for personnel handling HW. Specific requirements exist concerning the hazards in the workplace, OSHA requires training on: hazard communication (HAZCOM) to include specific chemical/physical hazards, material safety data sheets (MSDS), labeling, hazard communication plans, HW operations, and emergency response. Explicit OSHA HW and emergency response training requirements are contained in Figure 24.1.

24-2.17 Oil Pollution Act of 1990 (OPA 90). OPA 90 establishes requirements for operation of fuel facilities to prevent discharges. Explicit training requirements are included in reference (f)

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Health and Safety Training Requirements for Hazardous Waste and Emergency Response

Hazardous Waste Clean-Up Sites

Staff

• Routine site employees	40 hours initial 24 hours field 08 hours annual refresher
• Routine site employees (minimal exposure)	24 hours initial 08 hours field 08 hours annual refresher
• Non-routine site employees	24 hours initial 08 hours field 08 hours annual refresher

Supervisor/Managers of

• Routine site employees	40 hours initial 24 hours field 08 hours hazardous waste management 08 hours annual refresher
• Routine site employees (minimal exposure)	24 hours initial 08 hours field 08 hours hazardous waste management 08 hours annual refresher
• Non-routine site employees	24 hours initial 08 hours field 08 hours hazardous waste management 08 hours annual refresher

Treatment, Storage, and Disposal Sites

Staff

• General Site employees	24 hours initial or equivalent 08 hours annual refresher
• Emergency response personnel	Trained to a level of competency Annual refresher

Note: See 29 CFR 1910 (e) and (p)(7).

Other Emergency Response Staff

Level 1 - *First responder* (awareness level)[1]	*Sufficient training or proven experience in specific competencies*
Level 2 - First responder (operations level)[2]	Level 1 competency and 8 hours initial or proven experience in specific competencies
	Annual refresher
Level 3 - HAZMAT technician[3]	24 hours of Level 2 and proven experience in specific competencies
	Annual refresher
Level 4 - HAZMAT *specialist*[4]	24 hours of Level 3 and proven experience in specific competencies
	Annual refresher
Level 5 - On-the-scene incident commander[5]	24 hours of Level 2 and additional *competencies*
	Annual refresher

Note: See 29 CFR 1910.120 (q)(6).

1. *Witnesses or discovers* a release of hazardous materials and who is trained to notify the proper authorities
2. *Responds* to releases of hazardous substances in a defensive manner, without trying to stop the releases
3. Responds aggressively to stop the release of hazardous substances
4. Responds with and in support to HAZMAT technicians, but who has specific knowledge of various hazardous substances
5. Assumes control of the incident scene beyond the first-responder awareness level

Figure 24.1

for proper operation of systems and for prevention of spills.

24-2.18 Safe Drinking Water Act (SDWA). Training requirements are implied, but explicit requirements exist for certification of treatment plant operators, and for training water supply operators.

24-2.19 Solid Waste Disposal Act (SWDA) of 1965, as amended by Resource Conservation and Recovery Act (RCRA). Provides guidance to achieve/maintain compliance with RCRA. Training for environmental managers is implied, in order to ensure compliance.

24-2.20 Toxic Substances Control Act (TSCA). TSCA implicitly requires training with regard to control of polychlorinated Biphenyls (PCBs) and PCB waste for personnel involved in inventorying, marking, inspecting, assessing risk, notification of EPA, and disposition.

24-3 Terms and Definitions

None specifically applicable to this chapter.

24-4 Requirements

Environmental and natural resources laws and regulations describe training required in order to ensure that compliance with each act or regulation is achieved and maintained.

24-5 Navy Policy

24-5.1 General. The Navy's policy with regard to environmental training is that:

a. All personnel, military and civilian, active duty and reserve, shall receive quality initial training and periodic refresher training.

b. Officer and enlisted environmental awareness training shall be accomplished during initial accession training.

c. Training required for a specific billet/assignment shall be conducted enroute to the assignment, or as soon thereafter as practicable.

d. Training shall be both command-specific and general.

e. Training shall stress the roles and responsibilities of the individual as well as the command.

f. Training shall emphasize that compliance is mandatory, that success or failure in environmental compliance shall be considered during performance evaluations, that failure to comply with environmental standards may result in civil penalties being imposed against the command, and that some violations may subject the individual to administrative disciplinary action by the Navy or civil or criminal penalties imposed by Federal or State courts or regulators.

g. Naval Reserve commanders and commanding officers shall work closely with active duty counterparts to provide environmental and natural resources training for Naval Reservists.

24-5.2 Environmental Awareness Training. All uniformed members and civilian employees of the Navy shall receive environmental awareness training, to ensure that they fully understand the Navy's environmental and natural resources responsibilities (legal and moral), and also their roles in the proper execution of those responsibilities.

24-5.3 General Environmental Awareness Training

a. General awareness training for officers shall be satisfied through initial accession training.

b. Enlisted personnel shall receive general environmental awareness training during core and apprentice training.

c. Civilian personnel shall receive training as part of a command initial orientation program.

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Training shall cover an introduction and overview of:

(1) The Navy's Environmental and Natural Resources Program and Policy.

(2) Navy environmental and natural resources initiatives, and the impact of these initiatives on the individual.

(3) The role of the individual in achieving Navy environmental and natural resources compliance.

(4) Pollution prevention and recycling.

(5) Environmental planning and assessment as required by NEPA and Executive Order (EO) 12114.

(6) Consequences of non-compliance.

The Navy produces and provides environmental awareness training videotapes and accompanying user's guides for distribution to all activities. These should be used to assist in accomplishing general environmental awareness training.

24-5.4 Command Orientation. Each individual reporting to a command shall be provided with command-specific environmental awareness training, as part of the Command Orientation/I Division Program. The training shall include an overview of:

a. The command's commitment to a strong, protective, environmental ethic and stewardship of natural resources

b. The command's specific environmental responsibilities and its accompanying environmental awareness and compliance programs, including employee liability and protection of natural resources, and pollution prevention

c. The responsibility, commitment, and contribution of the individual to the environment

d. The command's environmental points of contact, and normal and emergency telephone numbers

e. An overview of the OEBGD and Final Governing Standards, where appropriate. All personnel shall also receive annual refresher training

f. Introduction to Federal, State, and local environmental laws and regulations.

24-5.5 Afloat Environmental Training

Personnel assigned to afloat commands shall receive both general and command-specific training on environmental laws and regulations. In addition, applicable job-specific training shall be provided as follows:

a. Ship-generated wastes and pollutants/general overview of pollution prevention program

b. HM handling, safety, control and disposal

c. Restrictions on disposal in the open ocean

d. OHS spills and releases first responder training

e. Spill contingency plan development and execution

f. Pollution prevention and recycling

g. Solid Waste/plastics discharge restrictions

h. Air pollution/ozone depleting substances

i. Oily waste discharge

j. Endangered species or marine mammal issues in local operating areas

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k. Fleet, battle group, and other operational planners shall, at a minimum, receive training in NEPA, EO 12114, Costal Zone Management Act (CZMA), ESA, MMPA, and the Marine Resources Sanctuaries Act (MRSA).

Surface warfare officers shall receive environmental and pollution prevention training at the earliest opportunity, through the Surface Warfare School (SWOS), as part of an appropriate curriculum (e.g. Prospective Commanding Officer (PCO), Prospective Executive Officer (PXO), Prospective Engineering Officer (PEO), Department Head (D.H.) etc).

Supply officers shall receive training at the Naval Supply Corps Officer School, as part of an appropriate curriculum (e.g. D.H, division officer).

Aviation officers shall receive environmental compliance and pollution prevention training as part of flight training, or as soon as possible thereafter. Embarked squadrons or detachments shall participate in the training program of the ship upon which they are embarked.

Submarine officers shall receive environmental compliance and pollution prevention training at the earliest opportunity as part of Prospective Commanding Officer/Prospective Executive Officer (PCO/PXO), D.H., and Basic Submarine Officer's Training.

Navy Judge Advocate General (JAG) officers being assigned to afloat commands shall receive environmental training in the staff Judge Advocate Course at Naval Justice School.

Afloat commanding officers may appoint, as necessary, a collateral duty environmental protection coordinator (EPC) as the command's primary source of guidance and information. The designated EPC shall attend the Afloat Environmental Protection Coordinator course (A-4J-0021) or equivalent, and shall complete Watchstation 304 in the HM/Environmental Protection Programs Afloat Personnel Qualification Standards (PQS) (NAVEDTRA 43528) within 6 months of assignment. One petty officer per firefighting or repair party shall be qualified on Watchstation 303 - HM Spill Response Scene Leader, and one on Watchstation 305 - Oil/Hazardous Spill Response Scene Leader (NAVEDTRA 43528). For submarines, type commanders shall specify requirements for completion of PQS 303 and 305, such that appropriately qualified individuals shall be present at the scene of any HM or oil spill. For MSC ships, COMSC shall specify requirements under manning constraints.

24-5.5.1 Specialized Environmental Training for Forces Afloat. Specialized environmental training for afloat command personnel may be obtained through the following:

a. HM Handling and Disposal training under reference (z):

(1) HM Coordinator Course (A-8B-0008) or equivalent

(2) HM for Supervisors Course (A-322-0010) or equivalent

(3) Hazardous Material Control and Management (HMC&M) Technician Course (A-322-2600) or equivalent, resulting in the award of secondary Navy enlisted classification (SNEC) 9595

(4) HM/Environmental Protection Programs Afloat PQS (NAVEDTRA 43528).

b. Oils, Waste Oils, and Oily Waste:

(1) SWOS Engineering/D.H. Schools

(2) A & C schools for personnel in the GS, BT, MM, EN, and ABF ratings

(3) Fleet training centers

(4) Afloat Environmental Protection Coordinator Course (A-4J-0021) or equivalent, available from NAVOSHENVTRACEN.

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c. Sewage (Blackwater and Greywater) and Industrial Waste Systems:

(1) SWOS Engineering/D.H. Schools

(2) Fleet training centers

(3) Afloat Environmental Protection Coordinator Course (A-4J-0021) or equivalent, available from the Navy Occupational Safety and Health and Environmental Training Center, Norfolk, VA (NAVOSHENVTRACEN).

d. Solid Wastes and Plastics:

(1) Command environmental awareness training

(2) Submarine Command Training

(3) Basic Supply Officer Course

(4) A & C schools for personnel in the SK, MS, SH, and AK ratings.

e. Maintenance of Solid Waste Processing Equipment (being developed).

f. Medical/Infectious Waste:

(1) Medical Officer Indoctrination Training

(2) A & C schools for Hospital personnel.

24-5.6 Shore Activity Environmental Training.

24-5.6.1 Flag Officers shall receive environmental and natural resources training at the earliest opportunity.

24-5.6.1.1 Regional Environmental Coordinators. These area commanders with environmental responsibilities shall receive training as defined below for commanding officers, with the addition of the following:

a. Public affairs and environmental protection

b. Interface with environmental regulators

c. Laws involving water pollution prevention, including CWA and SDWA

d. Advanced Environmental Law for the Navy Regional Environmental Coordinator (Proposed)

e. Emergency response management.

24-5.6.2 Commanding Officers of Shore Activities. Personnel assigned command of shore activities (including shore-based aviation commands) shall receive both general and command-specific training on Federal, State, and local environmental compliance laws and regulations within 6 months of taking command. Such training shall include an overview of:

a. Navy Environmental and Natural Resources Program and policies

b. CERCLA, Superfund Amendments and Reauthorization Act (SARA), RCRA, and Federal Facility Compliance Act (FFCA)

c. Installation Restoration Program

d. ESA compliance

e. Pollution prevention, HMC&M, and the command's responsibilities

f. Environmental and natural resources legal responsibilities and liabilities

g. The impact of CAA, CWA, and other environmental laws on shore activity operations

h. Costal Zone Management Act (CZMA)

i. Wetlands protection compliance

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j. OPA 90 and OHS spill or release contingency planning and response

k. National Historic Preservation Act and other cultural resource laws

l. ECE Program

m. NEPA

n. Nonpoint source pollution considerations

o. Interface with environmental regulators

p. HMC&M

q. FIFRA

r. The liabilities of non-compliance with environmental and natural resources laws and regulations

s. The activities of the Agency for Toxic Substances and Disease Registry, which conducts public health assessments, and the EPA risk assessment process

t. Principles and requirements of permitting processes (applications for permits, public involvement in the permitting process, compliance with permit requirements) used in environmental laws

u. State and local environmental laws and regulations.

24-5.6.2.1 This training may be obtained through the following:

a. Shore Station Command Seminar (P-1B-0002) or equivalent

b. Executive Environmental Seminar (A-4A-0054) or equivalent

c. NEPA Executive Overview

d. Naval On-Scene Coordinator (NOSC) Training

e. The Command Environmental and Natural Resources Training Program

f. Introduction to HM Ashore (A-493-003) or equivalent.

24-5.6.2.2 There are no specific environmental training requirements for shore activity executive officers. However, executive officers should attend formal environmental training within 6 months of reporting. At a minimum, executive officers shall attend the Executive Environmental Seminar (A-4A-0054) or equivalent.

24-5.6.3 **Civil Engineering Corps (CEC) officers.** CEC officers shall receive training in all topics required of the CO/XO, plus or with increased emphasis on the following:

a. Navy Environmental and Natural Resources Program and Policies

b. An overview of CERCLA, SARA, RCRA and the impact of these laws on shore commands

c. The Installation Restoration (IR) Program and its impact on public works organizations, including environmental risk communication and public dialogue

d. ESA compliance

e. HMC&M and the Public Work Center (PWC)/Public Work Lead Agency (PWLA)/Public Work Department (PWD) responsibilities and liabilities

f. The impact of the CAA, CWA, and other environmental laws on shore command operations

g. CZMA

h. Wetlands protection compliance

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i. OHS spill or release contingency planning

j. NHPA and other cultural resource laws

k. ECE Program

l. NEPA

m. Interface and relations with public agencies

n. HMC&M

o. Nonpoint source pollution considerations and compliance

p. FIFRA

q. Air installations compatible use zone (AICUZ) Program overview (if enroute to an aviation capable command

r. FFCA

s. The liabilities of non-compliance with environmental and natural resources laws and regulations

t. Interface with environmental regulators

u. Principles and requirements of permitting processes (applications for permits, public involvement in the permitting process, compliance with permit requirements) used in environmental laws

v. An overview of State and local environmental laws and regulations.

24-5.6.3.1 In addition to the training provided to CEC officers and the above training, the following training is required of public works officers:

a. Public Works Management (A-4A-0031) (Junior Officers) or equivalent

b. PWC Management for PCO and PXO (A-4A-0043) (CO/XO) or equivalent

c. Public works officer (PWO)/Senior Environmental Forum (A-4A-0059) (CO) or equivalent

d. Application of NEPA and EO 12114

e. Introduction to HM Ashore (A-493-0031), or equivalent.

24-5.6.3.2 Training for CEC officers may be obtained through the following:

a. CEC Officers Basic Qualification (A-4A-0010) (Junior Officer) or equivalent

b. Advanced CEC Officer (A-4A-0021) (Mid-level) or equivalent

c. Naval Facilities Systems Management (A-4A-0038) or equivalent

d. Application of NEPA

e Introduction to HM Ashore (A-493-0031), or equivalent.

24-5.6.4 OICC/ROICC. In addition to training required of CEC officers, OICC/ROICC training shall stress the following areas:

a. NHPA and other cultural resource laws and their impact on facility construction

b. IR site worker safety and health practices

c. Asbestos removal and disposal practices

d. ROICC Office Management (A-4A-0032) or equivalent

e. ROICC Environmental Clean-up Administration.

24-5.6.5 Environmental Officers and Environmental Managers. Training provided shall ad-

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dress the needs and requirements of personnel as a function of duties assigned, covering the following areas as applicable, and prior to assignment of environmental project/program management responsibilities in those areas:

a. Navy Environmental and Natural Resources Program and policies

b. Pollution prevention

c. An overview of CERCLA, SARA, RCRA and the impact of these laws of shore commands

d. IR Program, including environmental risk communication and public dialogue

e. ESA and MMPA compliance

f. HMC&M as it applies to the duties of the environmental officer/environmental manager

g. Environmental and natural resources legal responsibilities and liabilities

h. The impact of the CAA and CWA

i. CZMA

j. Wetlands protection compliance

k. OHS spill and release contingency planning

l. Cultural and historic resources programs

m. ECE Program

n. NEPA and EO 12114

o. Interface and relations with public agencies

p. HMC&M

q. Nonpoint source pollution considerations and compliance

r. FIFRA

s. AICUZ Program overview (aviation-capable installation)

t. The liabilities of non-compliance with environmental and natural resources laws and regulations

u. An overview of State and local environmental laws and regulations

v. HAZWOPER Awareness.

24-5.6.5.1 Shore Activity Collateral duty environmental managers shall attend the Environmental Protection Course (A-4A-0036) or equivalent.

24-5.6.5.2 Primary duty environmental managers shall receive the following training as soon as possible after reporting for their assigned duties, and prior to assignment of environmental project/program responsibilities in those areas. Training should focus on the primary areas of assigned responsibility.

a. A Comprehensive Environmental Manager's Course

b. Environmental Compliance for Engineers and Technical Managers (conducted by NAVFAC-ENGCOM)

c. Environmental Law for Non-Lawyers

d. PWO/Senior Environmental Forum

e. Application of NEPA

f. HW training program development

g. HW Annual Review and Refresher Course

h. Oil Spill Navy On-Scene Commander (NOSCDR) Course

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i. Environmental Audit Course.

24-5.6.6 Environmental Engineers, Environmental Protection Specialists and Environmental Program Managers and Staff. Environmental staff personnel advise on all environmental matters and ensure command compliance. Primary duty environmental staff members shall receive high training priority. Training provided shall address the needs and requirements of personnel as a function of duties assigned, covering the following areas as applicable, and prior to assignment of environmental project/program management responsibilities in those areas:

a. NEPA and EO 12114

b. CERCLA, SARA, RCRA, and FFCA

c. OHS/SPCC plan training

d. CAA, including permit requirements

e. CWA, including permit requirements

f. UST and aboveground storage tanks (AST) regulations

g. ECE and self-audit programs

h. CZMA

i. PCB, radon, and asbestos management

j. Drinking water systems and lead control

k. Ground water contamination

l. Overview of IR programs

m. HM minimization

n. HMC&M

o. Natural resources and endangered species training

p. Environmental Compliance course for engineers and technical managers

q. Environmental Law for Non-Lawyers

r. Overseas Environmental Baseline Guidance Document, if applicable

s. State and local environmental laws and regulations

t. Cultural and historic resources programs

u. Pollution Prevention Act

v. FFCA

w. OPA 90

x. Risk Assessment/Toxicology.

24-5.6.6.1 Command Environmental Planners. Command environmental planners shall receive the following training as applicable to specific job assignments:

a. EO 11988 (Floodplain Management)

b. Preparing NEPA and EO 12114 documents

c. Environmental quality planning

d. Natural resources issues as they relate to planning

e. Risk Assessment/Toxicology Seminar

f. Overview of the Installation Restoration Program

g. Geographical information systems (GIS) and computer-based environmental planning

h. Cultural and historic resources programs

i. Pollution prevention

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j. Fleet, battle group, and other operational planners should at a minimum receive training in NEPA, EO 12114, CZMA, ESA, MMPA, and the MRSA.

24-5.6.6.2 Command Natural Resources Personnel. Personnel assigned duties involving natural resources shall receive the following training as applicable to their specific job assignments:

a. Installation specific mission and natural resources

b. Vegetation restoration and management

c. Wildlife and fisheries management

d. Environmental law for non-lawyers

e. Endangered species and MMPA requirements

f. Wetlands protection and delineation

g. Recreation opportunities

h. Military fish and wildlife law enforcement

i. Agricultural or forestry management, as appropriate

j. Bird aircraft strike hazard (BASH) management, as appropriate

k. NEPA procedures

l. ECE and self-audit programs

m. Wetland development, delineation and restoration

n. Conservation, protection and enhancement of threatened and endangered species

o. Historic and cultural resources preservation

p. Erosion and sediment control

q. GIS Usage for natural resources usage

r. Fire science.

24-5.6.6.3 Command Cultural Resources Personnel. Command cultural resources personnel should receive training in the following areas, as appropriate:

a. The installation environment

b. The role of the state historic preservation officer (SHPO)

c. The role of the Advisory Council on Historic Preservation

d. Compliance with the National Historic Preservation Act

e. Compliance with the National Archeological Resources Protection Act

f. Compliance with the Native Graves Protection and Repatriation Act

g. The Section 106 process

h. Evaluating historic World War II and cold war resources

i. Inventories of historic and archeological resources

j. Coordinating cultural resources with other environmental programs/public works repair/maintenance/rehabilitation, and museum historic programs

k. The role of contractors to inventory archeological and historic resources, and in the development of historic archeological resources protection (HARP) Plans

l. Writing contracts for archeological and historic protection and the role of the contracting

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officer's representative and Engineering Field Division/ Engineering Field Activity (EFD/EFA) staff archaeologists overseeing contracts

m. HARP Plans for Installations

n. Law enforcement and protection of archeological, cultural, and historic resources

o. The ECE process for cultural resources protection and cultural resources program evaluation

p. Coordination and working with State, local, community, social and civic groups and native peoples for cultural, archeological, and historic preservation and protection.

24-5.6.7 Public Affairs Officers. Public affairs officers assigned to shore activities shall receive both general and command-specific training on environmental compliance laws and regulations. Such training shall include an overview of:

a. Navy Environmental and Natural Resources Program and policies

b. CERCLA, SARA, EPCRA, and RCRA

c. Environmental contracts management

d. Emergency/disaster response

e. OHS spill or release contingency planning

f. Historic and archeological resources management

g. HM and HW Introduction and HM/HW for Executives

h. Legal liabilities/responsibilities for Managers and Supervisors

i. Natural Resources Management

j. Community relations in the IR Program, including environmental risk communication and public dialogue

k. Navy occupational safety and health (NAVOSH) requirements Overview for Executives

l. Pollution prevention.

24-5.6.8 Staff Judge Advocates and Command Counsel (SJA/GC). Specific environmental training needs of legal personnel assigned to shore commands shall be satisfied through enroute training and the Navy Justice School, and shall include:

a. Role of counsel in the environmental program

b. Navy Environmental and Natural Resources Program and Policies

c. IR Program, including environmental risk communication and public dialogue

d. An overview of environmental laws and regulations, and their impact on shore activity operations

e. Environmental and natural resources legal responsibilities and liabilities

f. OHS spill and release contingency planning

g. National Historic Preservation Act and other cultural resource laws

h. ECE Program

i. NEPA and EO 12114

j. HMC&M

k. CERCLA, SARA, RCRA and their impact

l. PCB and asbestos management

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m. CAA and CWA

n. An overview of State and local environmental laws and regulations

o. An overview of ESA, MMPA, CZMA, NHPA, and wetlands laws and regulations.

24-5.6.8.1 Training in the above areas is available through the following courses:

a. SJA Course (S-SF-0020)

b. Navy Environmental Law for Lawyers

c. Reserve Lawyer Refresher Course (S-SE-0017)

d. Advanced Environmental Law for the Regional Environmental Coordinator (REC) (Proposed)

e. Advanced Environmental Law Abroad and Afloat (Proposed).

24-5.6.9 Activity HW and Emergency Response Personnel shall complete applicable job-specific training summarized on Figure 24.1.

24-5.6.10 Ordnance Industrial Workers, Managers, and Ordnance Engineering Support Personnel. Training for personnel assigned ordnance duties shall stress the integration of environmental compliance requirements into the fulfillment of DoD explosive safety requirements.

24-5.6.11 Other Shore Activity Environmental Training. Environmental training (in addition to awareness training) is necessary for other positions at shore commands, in which work practices shall have a significant impact on the environment. Commanding officers are encouraged to provide training to these personnel through command and school training as appropriate.

24-5.6.12 Commanders, Deputy Commanders, and Key Major Staff. Commanders, deputy commanders, and key personnel assigned environmental responsibilities on major claimant staffs shall receive the following overview training as appropriate:

a. Navy Environmental and Natural Resources Program and policy

b. An overview of environmental and natural resources laws and regulations, and their impact on shore command operations and fleet operations and exercises

c. IR Program, including environmental risk communication and public dialogue

d. ESA compliance

e. HMC&M

f. Environmental and natural resources legal responsibilities and liabilities

g. CZMA

h. Wetlands protection and compliance

i. MMPA

j. OHS spill or release contingency planning. Personnel assigned as NOSC's shall attend specific training

k. Cultural and historic resources programs

l. ECE program

m. NEPA and EO 12114

n. Acquisition Programs and Environmental Protection

o. Pollution prevention and recycling

p. HMC&M

q. Nonpoint source pollution considerations and compliance.

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The above training should provide an overview of environmental and natural resources issues. Personnel who work to a greater degree in specialized environmental compliance work (e.g. HW Management) should receive increased training in those areas.

24-5.6.13 EFD/EFA Activities. EFD/EFAs of NAVFACENGCOM have a singularly important role in the way in which the Navy pursues its environmental responsibilities. Commanding officers, executive officers, key department heads, environmental engineers, planning, compliance, and restoration personnel shall attend the Civil Engineering Corps Officer School (CECOS) Environmental Protection Course (A-4A-0036) or equivalent. This course shall provide the following:

a. NAVFACENGCOM role in the Environmental Program

b. Navy Environmental and Natural Resources Program and policies

c. IR Program, and its impact on shore activity operations, including environmental risk communication and public dialogue

d. An overview of environmental laws and regulations, and their impact on shore activity operations

e. Environmental and natural resources legal responsibilities and liabilities

f. OHS spill and release contingency planning

g. Cultural and historic resources programs

h. ECE Program

i. NEPA and EO 12114

j. HM and HMC&M

k. CERCLA, SARA, RCRA, EPCRA and their impacts

l. PCB and asbestos management

m. CAA and CWA

n. Pollution prevention.

24-5.6.13.1 EFD/EFA environmental engineers and environmental planners shall receive the following additional training, as applicable to their positions/duties:

a. Water pollution prevention programs

b. Air pollution prevention programs

c. Drinking water systems and lead control

d. Water conservation

e. USTs

f. FIFRA

g. Noise pollution prevention programs

h. CZMA

i. MMPA

j. Overseas environmental compliance

k. Environmental Audit Course

l. Environmental Compliance Course for Engineers and Technical Managers

m. Environmental Law for Non-Lawyer (Seminar)

n. Erosion and sediment control

o. Wetland regulation

p. Endangered species compliance

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q. Historic and cultural preservation

r. HAZWOPER awareness.

24-5.6.13.2 Personnel assigned to duties involving environmental restoration or remediation shall receive the following training as applicable to their specific job assignments:

a. Engineer in Charge (EIC) Course

b. Groundwater Contamination Course

c. IR Health and Safety Course

d. Risk Assessment/Toxicology Seminar

e. Environmental chemistry

f. IR Supervisor's Course

g. Environmental risk communication and public dialogue

h. Environmental restoration project management

i. Remediation technologies

j. HAZWOPER.

24-5.6.13.3 EFD/EFA environmental planners shall receive the following additional training:

a. Wetland regulation

b. Preparing NEPA documents

c. Environmental quality planning

d. Natural resources issues related to the planning process

e. Environmental risk communication and public dialogue

f. Cultural resources

g. ESA compliance.

24-5.6.13.4 EFD/EFA natural resources personnel shall receive the following training as applicable to their specific job assignments:

a. The IR Program, including environmental risk communication and public dialogue

b. Vegetation restoration and management

c. Wildlife and fisheries management

d. Environmental law for non-lawyers

e. Endangered species requirements

f. Wetlands protection and delineation

g. Recreation opportunities

h. Military fish and wildlife law enforcement

i. Agricultural or forestry management, as appropriate

j. BASH management, as appropriate

k. NEPA procedures

l. ECE and self-audit programs

m. Wetland development, delineation and restoration

n. Conservation, protection and enhancement of threatened and endangered species

o. Historic and cultural resources preservation

p. Erosion and sediment control

q. GIS Usage for natural resources usage

r. Natural resource damage assessment

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s. Planning, programming and budgeting.

24-5.6.14 Reserve Component Environmental Training. Naval Reservists shall be provided environmental training appropriate for their mobilization duties to the greatest extent possible. Naval Reserve unit commanders and commanding officers shall work with their active duty counterparts, to obtain training for reservists that they consider the minimum for individual mobilization missions and responsibilities.

24-6 Responsibilities

24-6.1 The Chief of Naval Operations (CNO (N45)) shall:

a. Establish policy for the accomplishment of environmental and natural resources compliance training in the Navy.

b. Act as the resource sponsor for Navy environmental and natural resources compliance training.

c. Work with the other Armed Services in the development and conduct of environmental training.

24-6.2 The Chief of Naval Education and Training (CNET) shall:

a. Recommend sources to obtain training in each of the environmental topics for each personnel category identified in this chapter.

b. For topics for which no training sources exists which satisfies the Navy training need, develop and provide training in those topics for the personnel categories identified in this chapter.

c. Determine equivalent sources of training, if any, for those training courses specified in this chapter. Maintain a list of equivalent training courses/training resources and distribute Navy-wide.

d. Establish formal training programs on the operation and maintenance of all environmental compliance systems and equipments developed for use aboard Navy ships and at Navy shore facilities.

e. Develop, budget for, and implement the Navy Environmental and Natural Resources Program Training Plan.

f. Develop standard lesson plans, audio-visual aids, and computer-based training packages to assist commands in the operation of effective environmental compliance training and orientation programs.

g. Develop a meaningful program to measure the effectiveness of the training, identify shortfalls, and provide for feedback of those shortfalls, in order to correct them in an expeditious manner.

h. Develop guidance in amplification of this directive as required.

24-6.3 Commander, Naval Legal Service Command shall:

a. Ensure that effective environmental and natural resources compliance training for military lawyers is developed and maintained.

b. Develop, budget for, and implement the Navy Environmental and Natural Resources Training Plan, pertaining to military lawyers.

c. Continually review the effectiveness of environmental training for military lawyers, and make recommendations to CNO (N45) for incorporation into the Navy Environmental and Natural Resources Training Plan.

24-6.4 Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM) shall:

a. Provide guidance to CNET on environmental and natural resources training, existing

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laws and regulations, actual experiences (lessons learned) and feedback.

b. Develop and provide training on the ECE Program to shore commands.

c. Provide technical guidance on environmental and natural resources training to CNO (N45).

d. Assist in the development of environmental and natural resources compliance training in the Navy.

24-6.5 Major claimants shall:

a. Ensure the development and implementation of effective environmental and natural resources training programs at both shore and afloat commands within their claimancies, providing amplifying guidance in support of this directive as required.

b. Assist in the conduct of ECE training for commands within their claimancies.

c. Monitor and fund the conduct of the training required per this instruction.

d. Coordinating with CNET, develop standard environmental and natural resources compliance orientation packages tailored for commands under their claimancies.

e. Provide guidance to CNET on environmental and natural resources training needs and actual experiences and feedback.

f. Review CNET and NAVFACENGCOM developed training courses for relevance to fleet and environmental program needs.

24-6.6 Unit commanders and commanding officers shall:

a. Comply with the training requirements of this chapter, and amplifying guidance from Fleet commanders in chief (CINCS), requesting funding or billet support as required.

b. Implement effective programs of orientation and I Division training.

c. Provide feedback on the adequacy and effectiveness of training received via the chain of command.

d. Provide appropriate environmental training to operations, maintenance, planning, design and construction personnel.

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CHAPTER 25

SAMPLING AND LABORATORY TESTING

Chapter 25, Sampling and Laboratory Testing, was not available at the time of publication. The chapter will be included in a future change of OPNAVINST 5090.1B.

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APPENDIX A

PERTINENT LAWS, EXECUTIVE ORDERS, REGULATIONS, AND DIRECTIVES

PART 1

LAWS

1 ACT TO PREVENT POLLUTION FROM SHIPS, 33 U.S.C. 1901 et seq.

Implements for the United States the International Convention on the Prevention of Pollution from Ships (MARPOL). Except as to garbage discharges, requires federal entities to establish regulations to conform agency vessel operations to MARPOL requirements, to the extent reasonable and practicable. Mandates full compliance by U.S. government vessels with MARPOL garbage discharge requirements. With respect to Navy ships, mandates 3/20 day plastic retention rule, plastic processor installation schedule, and public reporting on non-food waste discharges into in-effect special areas. Establishes deadlines for Navy surface ship and submarine plastic discharge termination and special area compliance.

2 ANTIQUITIES ACT OF 1906, 16 U.S.C. 431 et seq.

Requires the issuance of permits for study, removal, or excavation of any ruins, sites, structures, or objects of historic or scientific interest on Federal and Indian land.

3 ARCHAEOLOGICAL RESOURCES PROTECTION ACT OF 1979 (ARPA), 16 U.S.C. 470aa et seq.

Requires the issuance of permits for authorized professional excavation or removal of archeological resources on Federal and Indian land.

4 BALD EAGLE PROTECTION ACT, 16 U.S.C 668 et seq.

Provides for the protection of bald and golden eagles.

5 CLEAN AIR ACT (CAA), 42 U.S.C. 7401 et seq.

The major federal legislation addressing air pollution control. Establishes national ambient air quality standards (NAAQS) for common air pollutants ("criteria pollutants") and requires States to institute controls with established air quality control regions to achieve the NAAQS. Requires U.S. EPA to establish necessary air quality control where States fail to do so. Severity of controls increases as degree of nonattainment with NAAQS increases. Mandates EPA regulation of 138 identified "hazardous air pollutants." Implements the Montreal Protocol on Ozone Depleting Substances (ODS), mandating phase out of ODS production, prohibiting intentional venting of ODS refrigerants during appliance servicing, and requires technician certification.

6 COASTAL BARRIERS RESOURCES ACT, 16 U.S.C. 3501 et seq.

Restricts federally subsidized development of undeveloped coastal barriers along the Atlantic and Gulf of Mexico coasts.

7 COASTAL ZONE MANAGEMENT ACT OF 1972 (CZMA), 16 U.S.C. 1451 et seq.

Provides incentives for coastal States to develop and implement coastal area management programs. Plays a significant role in water pollution abatement, particularly with regard to nonpoint source pollution. State coastal zone management

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programs frequently incorporate flood control, sediment control, grading control, and storm water runoff control statutes. Federal actions that impact the coastal zone must be consistent to the maximum extent practicable with the State program.

8 COMMUNITY ENVIRONMENTAL RESPONSE FACILITATION ACT (CERFA), 42 U.S.C. 9601 note, 9620.

Amends CERCLA Section 120(h) to allow expedition of reuse and redevelopment of Federal facilities being closed.

9 COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980 (CERCLA), 42 U.S.C. 9601 et seq.

The major federal legislation addressing cleanup of hazardous substance releases. (Other cleanup requirements are imposed under Resource Conservation and Recovery Act (RCRA) corrective action and underground storage tank provisions.) Empowers EPA to identify and prioritize sites for cleanup, and to order or carry out environmental remediation. Subject to limited defenses, imposes strict liability for environmental cleanup on persons whose actions caused release into the environment. Mandates reporting to National Response Center of hazardous substance releases. With Clean Water Act, mandates preparation of the National Contingency Plan for responding to oil or hazardous substance releases. The Superfund Amendments and Reauthorization Act of 1986, *inter alia* established the Defense Environmental Restoration Account, codified at 10 U.S.C. 2701.

10 CONSERVATION PROGRAMS ON MILITARY INSTALLATIONS (SIKES ACT), 16 U.S.C. 670(a) et seq.

Requires each military department to manage natural resources and to ensure that services are provided which are necessary for management of fish and wildlife resources on each installation; to provide their personnel with professional training in fish and wildlife management; and, to give priority to contracting work with Federal and State agencies that have responsibility for conservation or management of fish and wildlife. Authorizes cooperative agreements (with States, local governments, non-governmental organizations, and individuals) which call for each party to provide matching funds or services to carry out natural resources projects/initiatives.

11 DEFENSE APPROPRIATIONS ACT OF 1991.

Establishes the Legacy Resource Management Program for the stewardship of biological, geophysical, cultural and historic resources on DoD lands.

12 EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT OF 1986 (EPCRA), 42 U.S.C. 11001 et seq.

This Act is also known as Title III of the Superfund Amendments and Reauthorization Act (SARA). EPCRA focuses on the hazards associated with toxic chemical releases. Most notably, specific sections of EPCRA require immediate notification of releases of oil and hazardous substances and CERCLA-defined hazardous substances to State and local emergency response planners. Requires State and local coordination in planning response actions to chemical emergencies. Requires certain industries to submit information on chemical inventories and fugitive emissions.

13 ENDANGERED SPECIES ACT OF 1973 (ESA), 16 U.S.C. 1531 et seq.

Provides for listing of endangered and threatened species of plants and animals, and designation of critical habitat for animal species. Establishes federal policy that federal agencies, in exercise of their authorities, shall seek to conserve endangered species. Prohibits federal agencies from taking any action that would adversely affect any

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endangered or threatened species, or critical habitat. Establishes a consultation process involving federal agencies generally and federal wildlife management agencies, to facilitate avoidance of agency action that would adversely affect species or habitat. Prohibits all persons subject to U.S. jurisdiction including federal agencies, from "taking" endangered species. Taking prohibition includes any harm or harassment, and applies within the U.S. and on the high seas.

14 FEDERAL ANTI-DEFICIENCY ACT, 31 U.S.C. 1341 et seq.

Provides that no Federal official or employee may obligate the government for the expenditure of funds before funds have been authorized and appropriated by Congress for that purpose.

15 FEDERAL FACILITY COMPLIANCE ACT OF 1992 (FFCA), 42 U.S.C. 6901 note, 6908.

Expands the enforcement authority of Federal and State regulators with respect to solid and hazardous waste management at Federal facilities. FFCA requires Federal facilities to pay any nondiscriminatory fees or service charges assessed in connection with a Federal, State, interstate, or local solid or hazardous waste regulatory program. Waives immunity for Federal facilities under solid and hazardous waste laws by allowing States to fine and penalize for violations.

16 FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA), 7 U.S.C. 136 et seq.

Provides the principal means for preventing environmental pollution from pesticides through product registration and applicator certification. The registration of all pesticide products by EPA results in label instructions on each container for use, storage, and disposal. Label instructions are legally applicable to all users. Under FIFRA, EPA is required to accept certain pesticides under recall for safe disposal. It is unlawful to purchase, distribute, or use any pesticide that does not have an EPA registration number or for which registration has been canceled or suspended, or to apply, store, or dispose of any pesticide or container in any manner inconsistent with applicable regulations.

17 FEDERAL NOXIOUS WEED ACT OF 1974, 7 U.S.C. 2801 et. seq.

Provides for the control of noxious plants on land under the control or jurisdiction of the Federal government.

18 FEDERAL WATER POLLUTION CONTROL ACT (CLEAN WATER ACT (CWA)), 33 U.S.C. 1251.

The major federal legislation addressing water pollution control. Establishes the National Pollution Discharge Elimination System (NPDES) permitting program, to control the discharge of pollutants from point sources into navigable waters. NPDES permits must incorporate industry-specific technology based effluent standards, as well as water quality based effluent standards. Establishes the Dredge and Fill Permit Program, to control the discharge of dredged or fill material in to navigable waters. Requires federal agencies to accommodate concerns of States regarding the consistency of federal projects with State nonpoint source pollution control programs.

19 FISH AND WILDLIFE CONSERVATION ACT OF 1980, 16 U.S.C 2901 et seq.

Provides for conservation, protection, restoration, and propagation of certain species; including migratory birds threatened with extinction.

20 FISH AND WILDLIFE COORDINATION ACT, 16 U.S.C. 661 et seq.

Provides for effective integration of fish and wildlife conservation programs with Federal water resources development and conservation projects having an impact on water resources.

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21 FOREST RESOURCES CONSERVATION AND SHORTAGE RELIEF ACT OF 1990, 16 U.S.C. 620 et. seq.

Regulates the export of unprocessed timber originating from Federal lands in the western States, and prohibits sale of such timber from Federal lands west of the 100th meridian in the contiguous 48 States to persons for the purpose of exportation, or to substitute for timber exported from private lands. Provides for exceptions and development of a program defining species and grades of timber excepted.

22 HISTORIC SITES, BUILDINGS, AND ANTIQUITIES ACT, 16 U.S.C. 461 et. seq.

Requires Federal agencies to consider the existence and location of landmarks on the National Registry of Natural Landmarks to avoid undesirable impacts on such landmarks.

23 MARINE MAMMAL PROTECTION ACT OF 1972 (MMPA), 16 U.S.C. 1431 et seq.

Subject to limited exceptions, prohibits the "taking" of marine mammals in the United States or on the high seas. "Taking" includes any harm or harassment.

24 MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT, 33 U.S.C. 1401.

Implements for the United States the London Dumping Convention. Requires EPA permit for transportation from the U.S., or from elsewhere in the world, of any "material" for the purpose of disposing of it in the ocean. Establishes the National Marine Sanctuary program, under which the National Oceanic and Atmospheric Administration (NOAA) designates and establishes regulations pertaining to national marine sanctuaries. NOAA regulations in some cases restrict discharges from vessels and aircraft overflight.

25 MIGRATORY BIRD TREATY ACT, 16 U.S.C. 703.

Prohibits taking or harming of migratory and certain other birds, their eggs, nests, or young without the appropriate permit.

26 MILITARY CONSTRUCTION AUTHORIZATION ACT OF 1975, 10 U.S.C. 2665.

Allows the proceeds from the sale of recyclable material to be credited to the installation to cover specified costs.

27 MILITARY CONSTRUCTION CODIFICATION ACT, 10 U.S.C. 2577 et seq.

An Act to provide guidance for the sale of certain recyclable material.

28 NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (NEPA), 42 U.S.C. 4321 et seq.

Mandates federal agency consideration and documentation of environmental impacts of proposed actions and legislation. Mandates preparation of comprehensive environmental impact statement where proposed action is "major" and significantly affects the quality of the human environment.

29 NATIONAL HISTORIC PRESERVATION ACT, 16 U.S.C. 470 et seq.

Requires Federal agencies to take account of the effect of any federally-assisted undertaking or licensing on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register of Historic Places. Provides for the nomination, identification (through listing on the National Register), and protection of historical and cultural properties of significance. Specific procedures are established for compliance, including initial review authority by the cognizant State Historical Protection Officer.

Information Handling Services. DODSTD Issue 96-05.

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30 NOISE CONTROL ACT OF 1972, 42 U.S.C. 4901 et seq (as amended by the Quiet Communities Act).

Authorizes establishment of Federal noise emission standards for products distributed in commerce, and coordinates Federal research efforts in noise control.

31 OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (OSHA), 29 U.S.C. 651 et seq.

Assures safe and healthful working conditions for men and women by authorizing enforcement of the standards developed under the Act; by assisting and encouraging the States in their efforts to assure safe and healthful conditions; by providing for research, information, education, and training in the field of occupational safety and health.

32 OIL POLLUTION ACT OF 1990 (OPA 90), 33 U.S.C. 2701 et seq.

Mandates extensive planning for oil spills from tank vessels and onshore and offshore facilities. Establishes comprehensive elements of damage for oil spills, and imposes strict liability on those responsible for oil spills. Inapplicable to public vessels.

33 OUTDOOR RECREATION PROGRAMS ORGANIC ACT, 16 U.S.C. 460l et seq.

Defines a program for managing of lands for outdoor recreation. Requires Federal departments to consult with the Secretary of Interior on plans and activities relating to outdoor recreation, and to manage outdoor recreation programs in general conformity to the nationwide plan.

34 POLLUTION PREVENTION ACT OF 1990 (PPA), 42 U.S.C. 13101, et seq.

Establishes the national policy that "pollution should be prevented or reduced at the source whenever feasible. Pollution that cannot be prevented should be recycled in an environmentally safe manner. Disposal or other release of pollutants into the environment should be employed only as a last resort and should be conducted in an environmentally sound manner."

35 RESOURCE, CONSERVATION AND RECOVERY ACT OF 1976 (RCRA), 42 U.S.C. 6901 et seq.

The major federal legislation addressing hazardous waste management. RCRA amends the Solid Waste Disposal Act (SWDA). Establishes duties and responsibilities of hazardous waste generators, transporters, storers, treaters and disposers. Authorizes U.S. EPA to mandate cleanup of hazardous waste releases through "corrective action" orders. Regulates underground storage tanks, imposing structural integrity and management practice requirements.

36 SAFE DRINKING WATER ACT (SDWA), 42 U.S.C. 300f et seq.

Creates a system for the protection of drinking water supplies through establishment of contaminant limitations and enforcement procedures. The SDWA requires EPA to issue primary drinking water standards to protect public health. Allows EPA to designate Sole Source Aquifers as the principal source of drinking water for communities. Requires each State to adopt a Wellhead Protection program to prevent contamination of surface and subsurface areas that surround wells within their jurisdiction from contamination. States have primary responsibility to enforce compliance with national primary drinking water standards and sampling, monitoring, and notice requirements.

37 SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT, 16 U.S.C. 590a et seq.

Provides for the application of soil conservation practices on Federal lands.

Information Handling Services. DODSID Issue 96-05.

38 TOXIC SUBSTANCES CONTROL ACT (TSCA), 15 U.S.C. 2601 et seq.

Provides for the Federal regulation of the manufacture, use, distribution in commerce, and disposal of chemical substances that present a hazard to health or the environment. The major objective of TSCA is to characterize and understand the risks that a chemical poses to humans and the environment before it is introduced into commerce. The Act also contains specific requirements relative to Polychlorinated Biphenyls (PCBs), asbestos, and radon.

PART 2

FEDERAL REGULATIONS

1 CODE OF FEDERAL REGULATIONS

The Code of Federal Regulations (CFR) consists of 50 titles representing broad areas subject to Federal regulation. All general and permanent regulations published in the daily Federal Resister by executive agencies and departments of the Federal government appear in the CFR, which is updated annually. For example, all regulations issued by the EPA under the subject heading "Protection of the Environment" are codified in Title 40 of the CFR.

Relevant CFRs are:

1. 15 CFR 923, National Oceanic and Atmospheric Administration Coastal Zone Management Program Development and Approval Regulation;

2. 15 CFR 930, Federal Consistency with Approved Coastal Management Programs;

3. 18 CFR 1312, Archeological Resource Protection Act Regulations;

4. 29 CFR 1910, Occupational Safety and Health Standards;

5. 29 CFR 1910.120, Occupational Safety and Health Administration (OSHA) Regulations on Hazardous Waste and Emergency Response;

6. 29 CFR 1910.1200, OSHA Hazard Communication Standard;

7. 32 CFR 172 (DoD Instruction 7310.1), DoD Regulations for the Disposition of Proceeds from Sales of Surplus Property;

8. 32 CFR 190, Natural Resources Management Program;

9. 32 CFR 775, DON Procedures for Implementing the National Environmental Policy Act (NEPA);

10. 33 CFR 154, Oil Pollution Prevention Regulations for Marine Oil Transfer Facilities;

11. 33 CFR 330, Dredge & Fill Nationwide Permit Program;

12. 36 CFR 800, National Historic Preservation Act (NHPA) Regulations for the Protection of Historic Properties;

13. 40 CFR 6, EPA Regulations on Implementation of National Environmental Policy Act Procedures;

14. 40 CFR 50, Environmental Protection Agency Regulations on National Primary and Secondary Ambient Air Quality Standards;

15. 40 CFR 51-52, EPA Requirements for Preparation, Adoption, Submittal, Approval and Promulgation of Implementation Plans;

16. 40 CFR 53, EPA Regulations for Ambient Air Monitoring Reference and Equivalent Methods;

17. 40 CFR 55, Outer Continental Shelf Air Regulations;

Information Handling Services. DODSTD Issue 96-05.

18. 40 CFR 56, EPA Regulations on Regional Consistency Under the Clean Air Act;

19. 40 CFR 58, EPA Ambient Air Quality Surveillance Regulations;

20. 40 CFR 60, EPA Regulations on New Source Performance Standards;

21. 40 CFR 61, National Emissions Standards for Hazardous Air Pollutants;

22. 40 CFR 62, EPA Regulations on State Plans for Designated Facilities and Pollutants;

23. 40 CFR 65, EPA Regulations on Delayed Compliance Orders Under the Clean Air Act;

24. 40 CFR 66, EPA Regulations for Assessment and Collection of Noncompliance Penalties;

25. 40 CFR 68, Chemical Accident Prevention Provisions;

26. 40 CFR 69, EPA Special Exemptions from Requirements of the Clean Air Act;

27. 40 CFR 70, State Operating Permit Programs;

28. 40 CFR 80, Regulation of Fuels and Fuel Additives;

29. 40 CFR 81, EPA Regulations Designating Areas for Air Quality Planning;

30. 40 CFR 82, EPA Stratospheric Ozone Protection Regulations;

31. 40 CFR 86, Control of Air Pollution from New and In-Use Motor Vehicle Engines: Certification and Test Procedures;

32. 40 CFR 87, EPA Regulations on Control of Air Pollution and Aircraft and Aircraft Engines;

33. 40 CFR 104, EPA Regulations on Public Hearings on Effluent Standards for Toxic Pollutants;

34. 40 CFR 109, EPA Regulations on Criteria for State, Local, and Regional Oil Removal Contingency Plans;

35. 40 CFR 110, EPA Regulations on Discharge of Oil;

36. 40 CFR 112, EPA Regulations on Oil Pollution Prevention;

37. 40 CFR 113, EPA Regulations on Liability for Small Onshore Oil Storage Facilities;

38. 40 CFR 116-117, EPA Regulations on Hazardous Substances;

39. 40 CFR 122, EPA National Pollutant Discharge Elimination System Permit Regulations;

40. 40 CFR 125, EPA Regulations on Criteria and Standards for the National Pollutant Discharge Elimination System;

41. 40 CFR 129, EPA Toxic Pollutant Effluent Standards;

42. 40 CFR 130, EPA Requirements for Water Quality Planning and Management;

43. 40 CFR 141-143, EPA National Drinking Water Regulations;

44. 40 CFR 148, EPA Regulations on Hazardous Waste Disposal Restrictions for Class I Wells;

45. 40 CFR 150-186, EPA Regulations for Pesticide Programs;

46. 40 CFR 162, EPA Regulations on Insecticide, Fungicide, and Rodenticide Use;

47. 40 CFR 220-225, 227-229, Ocean Dumping Regulations and Criteria;

Information Handling Services. DODSTD Issue 96-05.

48. 40 CFR 230, EPA Interim Regulations on Discharge of Dredged or Fill Material into Navigable Waters;

49. 40 CFR 231, EPA Regulations on Disposal Site Determination Under the Clean Water Act;

50. 40 CFR 240-241, EPA Guidelines for the Thermal Processing of Solid Wastes and for the Land Disposal of Solid Wastes;

51. 40 CFR 243, EPA Guidelines for Solid Waste Storage and Collection;

52. 40 CFR 244, EPA Guidelines for Solid Waste Management of Beverage Containers;

53. 40 CFR 245, EPA Guidelines for Resource Recovery Facilities;

54. 40 CFR 246, EPA Guidelines for Source Separation for Materials Recovery;

55. 40 CFR 247, EPA Guidelines for Procurement of Products that Contain Recycled Material;

56. 40 CFR 248, EPA Guidelines for Federal Procurement of Building Insulation Products Containing Recovered Materials;

57. 40 CFR 249, EPA Guidelines for Federal Procurement of Cement and Concrete Containing Fly Ash;

58. 40 CFR 250, EPA Guidelines for Federal Procurement of Paper and Paper Products Containing Recovered Materials;

59. 40 CFR 252, EPA Guidelines for Federal Procurement of Lubricating Oils Containing Rerefined Oil;

60. 40 CFR 253, EPA Guidelines for Federal Procurement of Retread Tires;

61. 40 CFR 255, EPA Guidelines for Identification of Regions and Agencies for Solid Waste Management;

62. 40 CFR 257, EPA Regulations on Criteria for Classification of Solid Waste Disposal Facilities and Practices;

63. 40 CFR 259, EPA Medical Waste Regulations;

64. 40 CFR 260-270, EPA Regulations Implementing RCRA;

65. 40 CFR 262, EPA Regulations for Hazardous Waste Generators;

66. 40 CFR 264, EPA Regulations for Owners and Operators of Permitted Hazardous Waste Facilities;

67. 40 CFR 268, EPA Regulations on Land Disposal Restrictions;

68. 40 CFR 280, Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks;

69. 40 CFR 300, National Oil and Hazardous Substances Pollution Contingency Plan under CERCLA and CWA;

70. 40 CFR 300.600, National Oil and Hazardous Substances Pollution Contingency Plan (NCP), Designation of Federal Trustees;

71. 40 CFR 300.615, Responsibilities of Trustees;

72. 40 CFR 302, EPA Designation, Reportable Quantities and Notification Requirements for Hazardous Substances under CERCLA;

73. 40 CFR 355, EPA Regulations for Emergency Planning and Notification Under CERCLA;

Information Handling Services, DODSTD Issue 96-05.

74. 40 CFR 370, EPA Hazardous Chemical Reporting and Community Right-To-Know Requirements;

75. 40 CFR 372, EPA Toxic Chemical Release Reporting Regulations;

76. 40 CFR 373, EPA Regulations for Real Property Transactions under CERCLA;

77. 40 CFR 403, General Pretreatment Regulations for Existing and New Sources of Pollution;

78. 40 CFR 413, EPA Effluent Guidelines and Standards for Electroplating;

79. 40 CFR 414, EPA Effluent Guidelines and Standards for Organic Chemicals;

80. 40 CFR 415, EPA Guidelines and Standards for Inorganic Chemicals;

81. 40 CFR 417, EPA Effluent Guidelines and Standards for Soaps and Detergents;

82. 40 CFR 433, EPA Effluent Guidelines and Standards for Metal Finishing;

83. 40 CFR 504, State Sludge Management Program Regulations;

84. 40 CFR 760-761, EPA Regulations for Controlling PCBs;

85. 40 CFR 1500-1508, Council on Environmental Quality Regulations on Implementing National Environmental Policy Act Procedures;

86. 41 CFR Subchapter H Parts 41-47, GSA Disposal Regulations;

87. 49 CFR 100-199, Department of Transportation Hazardous Materials Regulations;

88. 49 CFR 126, Requires training and written examination of personnel that transport pesticide on public highways;

89. 49 CFR 194, DOT Research and Special Programs Administration (RSPA) Oil Pollution Prevention Regulations for Onshore Pipelines;

90. 50 CFR 10, Regulations Concerning Marine Mammals;

91. 50 CFR 10.13, List of Migratory Birds;

92. 50 CFR 17.11 and 17.12, Fish and Wildlife Service List of Endangered and Threatened Wildlife;

93. 50 CFR 18, 216, 228, Regulations Concerning Marine Mammals;

94. 50 CFR 402, Interagency Cooperation - Endangered Species Act of 1973.

PART 3

EXECUTIVE ORDERS (EOs) AND REORGANIZATION PLANS

1 EXECUTIVE ORDER 11644, 8 February 1972, Use of Off-Road Vehicles on the Public Lands. Amended by EO 11989 and EO 12608.

Requires federal land managing agencies, including the Department of Defense, to issue regulations governing use of off-road vehicles on the public lands. Regulations shall be designed to protect natural resources and protect safety of individuals involved. Clarifies agency authority to define zones of use by off-road vehicles on public lands and amends EO 11644 of 8 February 1972, by exempting fire, military, emergency, law enforcement, or combat/combat support vehicles.

2 EXECUTIVE ORDER 11990, 24 May 1977, Protection of Wetlands.

Requires federal agencies to avoid undertaking or providing assistance for new construction located in wetlands unless there is no practicable alternative, and all practicable measures to minimize harm to wetlands have been implemented.

Information Handling Services, DODSTD Issue 96-05.

3 EXECUTIVE ORDER 12088, of 13 October 1978, Federal Compliance with Pollution Control Standards.

Provides that the head of each federal agency is responsible for compliance with "applicable pollution control standards," defined as "the same substantive, procedural and other requirements that would apply to a private person." Requires federal agencies to cooperate with the U.S. EPA, States, and local agencies in the prevention, control and abatement of environmental pollution. Requires the EPA Administrator to provide technical advice and assistance to Executive agencies in order to ensure their cost effective and timely compliance with applicable pollution control standards. Provides that disputes between the U.S. EPA and another federal agency regarding environmental violations shall be elevated to the Office of Management and Budget for resolution.

4 EXECUTIVE ORDER 12114, 4 January 1979, Environmental Effects Abroad of Major Federal Actions.

Requires environmental study, under delineated circumstances, of actions proposed to be undertaken outside the geographical borders of the United States.

5 EXECUTIVE ORDER 12146, Management of Federal Legal Resources.

Provides that federal agencies whose heads serve at the pleasure of the President shall submit interagency legal disputes to the Attorney General.

6 EXECUTIVE ORDER 12344, 1 February 1982, Naval Nuclear Propulsion Program.

Provides that the Director of the Naval Nuclear Propulsion Program shall prescribe and enforce standards and regulations for the safety of reactors and associated naval nuclear propulsion plants, and for control of radiation and radioactivity associated with naval nuclear propulsion activities, as such activities affect the environment and the safety and health of workers, operators and the general public.

7 EXECUTIVE ORDER 12580, 23 January 1987, Superfund Implementation.

Delegates to various federal agencies, including the Department of Defense, various responsibilities assigned to the President under the Comprehensive Environmental Response, Compensation and Liabilities Act.

8 EXECUTIVE ORDER 12777, 18 October 1991, Implementation of Section 311 of the Federal Water Pollution Control Act of October 18, 1972, and the Oil Pollution Act of 1990.

Delegates to the U.S. EPA and the Coast Guard various responsibilities assigned to the President under Clean Water Act section 311 and the Oil Pollution Act of 1990.

9 EXECUTIVE ORDER 12780, 31 October 1991, Federal Agency Recycling and the Council on Federal Agency Recycling and Procurement Policy.

Requires federal agencies to promote cost-effective waste reduction and recycling of reusable materials, and to establish federal preferences for procurement of items made from recycled materials.

10 EXECUTIVE ORDER 12843, 23 April 1993, Procurement Requirements and Policies for Federal Agencies for Ozone-Depleting Substances.

Mandates federal agency use of non-ozone-depleting substances where economically practicable, and demonstration of leadership to phase out ozone depleting substances.

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11 EXECUTIVE ORDER 12856, 3 August 1993, Federal Compliance With Right-to-Know Laws and Pollution Prevention Requirements.

Requires Federal agency compliance with various sections of EPCRA.

12 EXECUTIVE ORDER 12873, 20 October 1993, Federal Acquisition, Recycling and Waste Prevention.

Requires federal agencies to promote waste prevention, to recycle, and to expand markets for recovered materials.

13 EXECUTIVE ORDER 12898, 11 February 1994, Environmental Justice.

Deals with Federal actions to address environmental justice in minority populations and low-income populations.

14 EXECUTIVE ORDER 12902, 8 March 1994, Energy Efficiencies and Water Conservation at Federal Facilities.

Federal agency use of energy and water resources is directed towards the goals of increased conservation and efficiency.

PART 4

OMB CIRCULARS

1 OFFICE OF MANAGEMENT AND BUDGET (OMB) CIRCULAR NO. A-106, 31 December 1974.

This circular provides procedures to be followed by Federal agencies in carrying out the provisions of EO 12088 pertaining to the control of environmental pollution from existing Federal facilities. All Federal agencies must report specific environmental requirements semiannually, in a standard format, to EPA.

PART 5

DEPARTMENT OF DEFENSE DIRECTIVES

1. DoD Directive 4001.1 of 4 September 1986, Installation Management; (NOTAL)

2. DoD Directive 4140.1 of 4 January 1993, Material Management Policy; (NOTAL)

3. DoD Directive 4150.7 of 24 October 1983, DoD Pest Management Program; (NOTAL)

4. DoD Directive 4165.57 of 8 November 1977, Air Installations Compatible Use Zones; (NOTAL)

5. DoD Directive 4165.60 of 4 October 1976, Solid Waste Management - Collection, Disposal, Resource Recovery, and Recycling Program; (NOTAL)

6. DoD Directive 4700.2 of 15 July 1988, Secretary of Defense Award for Natural Resources and Environmental Management; (NOTAL)

7. DoD Directive 4710.1 of 21 June 1984, Archeological and Historical Resources Management; (NOTAL)

8. DoD Directive 6050.1 of 30 July 1979, Environmental Effects in the United States of DoD Actions; (NOTAL)

9. DoD Directive 6050.4 of 16 March 1982, Marine Sanitation Devices for Vessels Owned or Operated by the Department of Defense; (NOTAL)

10. DoD Directive 6050.7 of 31 March 1979, Environmental Effects Abroad of Major Department of Defense Actions; (NOTAL)

11. DoD Directive 6050.8 of 27 February 1986, Storage and Disposal of non-DoD Owned Hazardous or Toxic Materials on DoD Installations; (NOTAL)

Information Handling Services. DODSTD Issue 96-05.

12. DoD Directive 6050.15 of 14 June 1985, Prevention of Oil Pollution from Ships Owned or Operated by the DoD. (NOTAL)

Information Handling Services. DODSTD Issue 96-05.

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TAB B

FORMAT FOR SHIP NOMINATIONS FOR THE SECRETARY OF THE NAVY ENVIRONMENTAL AWARDS

1 Introduction. List mission, approximate crew size (unless classified) of the ship, and homeport.

2 Background

2.1 Summarize environmental challenges on the ship.

2.2 Describe organization and staffing of ship's environmental management.

2.3 List of all environmental plans and agreements and dates of preparation or last review.

3 Program Summary

3.1 Describe environmental quality program and degree of attainment during past 2 years.

3.2 Describe the most outstanding program features and accomplishments of the past 2 years.

4 Accomplishments. Describe activities and achievements during the past 2 years in the following areas (if applicable):

4.1 Air Pollution Control. Describe emission controls improvements.

4.2 Water Pollution Control

4.2.1 Delineate collection, holding, and transfer (CHT) system management practices.

4.2.2 Describe oil spill prevention/response efforts.

4.3 Waste management and Resource Recovery

4.3.1 Summarize solid waste management practices.

4.3.2 List source reduction techniques used by the command.

4.3.3 Enumerate resource recovery techniques used by the command.

4.4 Hazardous Waste Management. Describe hazardous waste (HW) minimization/recycling efforts.

4.5 Environmental Awareness. List command initiated programs to enhance environmental protection and awareness.

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APPENDIX B

PROCESSING NOTICES OF VIOLATION (NOVs) OR NONCOMPLIANCE (NONs) UNDER ENVIRONMENTAL LAWS AND REGULATIONS

1 Framework

Various environmental laws subject Federal facilities to Federal, State, and local substantive and procedural requirements. Accordingly, notices of violation (NOVs) or notices of noncompliance (NONs) may be received. In general, Federal facilities must comply with substantive and procedural requirements imposed by Federal, State, interstate, and local authorities. Where regulators detect suspected violations of those requirements, Federal EPA officials may issue NONs; State and local officials may issue NOVs. The Federal Facility Compliance Act authorizes the EPA to seek monetary penalties from Federal installations for violation of hazardous waste management laws and regulations. In addition, State regulatory agencies may seek monetary penalties for various environmental media violations. Requests for payment of fines and penalties for violation of environmental laws and regulations shall not be honored without first seeking the advice of legal counsel. This appendix applies to the investigation of violations of, or noncompliance with, environmental laws and regulations by Navy activities and subsequent payment of fines or penalties, where warranted. NOVs and NONs may trigger formal legal proceedings with specific deadlines, procedures and consequences. Accordingly, early consultation with legal counsel is required in determining how to respond.

2 Responsibilities

2.1 Legal assistance is available from major claimants, regional environmental coordinators (REC), and NAVFACENGCOM EFDs. Upon receipt of any such NOV, NON, warning letter, citizen suit notice, warning notice, consent order, or any other such notice of deficiency of Federal, State, interstate, or local environmental control laws or regulations, the commanding officer of the cited facility shall:

a. Inform Chief of Naval Operations (CNO) by message, with information copies to the chain of command, Navy Judge Advocate General (JAG), Navy Office of Assistant General Council (Installations and Environment) (OAGC(I&E)), appropriate NAVFACENGCOM Engineering Field Division (EFD), Naval Facilities Engineering Services Center (NFESC) Port Hueneme, CA, and regional environmental coordinator. The initial message shall be sent upon receipt of the written citation and conform to the format described in paragraph 2.2 of this appendix. A follow-up message containing additional details shall be sent as soon as the information requested in paragraph 2.3 is known, or within 6 months of receipt of the NOV, whichever occurs first. The final follow up message for a specific NOV shall state that all issues are resolved and that the issuing agency considers the action complete.

b. It is recommended that attorneys with special environmental law expertise in the area be requested to provide support and representation to ensure the most favorable outcome where: 1) shutdown of operations is threatened; 2) a significant penalty is possible; 3) the action involves significant DON legal precedent. Upon receipt of any oral, informal, or formal notice of noncompliance, the commanding officer shall seek technical and legal support from the command environmental technical personnel and from the assigned Staff Judge Advocate (SJA) or Office of General Council (OGC) command counsel, or if no attorney is assigned, from counsel advising the chain of command or from counsel at the servicing EFD.

c. Conduct a preliminary inquiry into the facts and circumstances of the violation, obtain legal and technical support, and take corrective ac-

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tion. Upon request for payment of a fine or penalty, prepare a written investigative report per procedures established by the major claimant or delegated representative. Commands should consult with counsel to ensure that the investigation is convened, structured and conducted in such a manner that it is of maximum benefit to the command's defense and is privileged from disclosure to regulators. The investigative report shall cover the facts and circumstances of the incident and include such documents, statements, photographs, claims for damage, notice of fine or penalty, and further data as may be required in the particular case. The format of the report may be either a JAG Manual investigation or letter report. The investigative report shall be forwarded to the major claimant via the chain of command with copies to N457, Shore Compliance Branch, Navy OAGC(I&E), NFESC, the regional environmental coordinator, and the appropriate NAVFACENGCOM EFD.

d. Prepare responses to pollution control agencies per policies provided in this manual.

e. Consult with on-site or command counsel, and if no factual or legal defense exists, negotiate the lowest possible amount of penalty. Prepare a penalty analysis and develop a negotiation strategy prior to negotiation. Suggested elements of the penalty analysis and negotiation strategy would include:

ANALYSIS OF VIOLATIONS

Report of violation (assertion by the regulatory agency)

BACKGROUND

1. Applicable regulations
2. Responsible agency
3. Direct supervisor (if known)
4. Specific circumstances
5. Date of corrective action
6. Description of corrective action

OPINIONS

1. Did the violation occur?
   a. Is this a repeat violation?
   b. Is Federal Facility Compliance Act applicable?
2. Liability of responsible agency or individual?

FINE OR PENALTY ANALYSIS

Class of Violation (as defined by regulatory agency)

FACTORS ASSOCIATED WITH THE VIOLATION

1. Determine the actual or potential harm associated with the violation (classification such as Major, Moderate or Minor as defined by regulatory agency schedule of penalties.)
   a. Characteristics of the substance involved:
      (1) Hazardous Material (HM) or Hazardous Waste (HW)
      (2) Characteristics (Corrosive, toxic, ignitable, reactive, etc.) Listed or Characteristic waste? Extremely Hazardous? Carcinogen?
      (3) Degree of hazard? (classification such as Major, Moderate, or Minor as defined by regulatory agency schedule of penalties.)
   b. Amount of material involved:
      (1) Based on the characteristics, does regulatory agency consider the amount large or small?
   c. Specific situation:
      (1) Was human life or health threatened? Extent?

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(2) Were natural resources threatened? Extent?
(3) Was the environment threatened? Extent?
(4) Were water supplies or resources threatened? Extent?
(5) Can potential damage be minimized or prevented?

2. Determine extent of deviation from regulatory standards (classification such as Major, moderate, or Minor as defined by regulatory agency schedule of penalties.)

3. Calculate initial penalty or fine from regulatory agency schedule of penalties.

4. Calculate multi-day penalties if applicable.

5. Calculate base total penalty.

6. Adjust penalty for factors associated with the violator, for economic benefit of non-compliance, and all other adjustments allowed by regulatory agency schedule of penalties.

RECOMMENDATION

1. Recommended settlement amount:

2. Recommended corrective action:

3. Recommended disciplinary or personnel action:

a. If there is a defense, forward the investigative report to the major claimant via the chain of command with a copy to Navy OAGC(I&E) and recommend that the fine or penalty be contested. In cases where the recommendation to contest the violation or noncompliance is not accepted, procedures outlined paragraph 2.1d will be followed.

2.1.1 Major claimants shall maintain a current listing of all NOVs or other notices, etc. received by activities under their command. The resolution status of each shall be closely monitored by the Chain of Command. The activity only will declare the NOV resolved for DON tracking purposes after appropriate corrective action has been taken and the issuing regulatory agency has concurred.

2.2 Required Initial Information on NOVs. Initial information is required for each NOV, written citation, etc. that is received and shall be submitted using the following message format:

FM: NAVY ACTIVITY/SHIP//CODE//

TO: CNO WASHINGTON DC//N45//

INFO: CHAIN OF COMMAND
LEGSVCSUPPGRU OGC WASHINGTON DC//OAGC(I&E)//
REGIONAL ENVIRONMENTAL COORDINATOR//JJJ//
NFESC PORT HUENEME CA//424//
NAVFACENGCOM EFD//JJJ//
NAVY JAG ALEXANDRIA VA//012//

//UNCLAS //N05090//

SUBJ: RECEIPT OF NOTICE OF ENVIRONMENTALVIOLATION/NONCOMPLIANCE

MSGID/GENADMIN/ORIGINATOR//CODE//
REF/A/DOC/OPNAVINST 5090.1B//
RMKS/

1. Activity or ship name in violation.

2. Navy Unit Identification Code (UIC) number.

3. Activity address/ship homeport.

4. City (for ships, where violation occurred).

5. State (use 2 letter State abbreviations).

6. County.

7. Point of contact for additional information.

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8. Point of Contact (POC) telephone number.

9. EPA region.

10. Was a NOV received (yes or no); if so, how many? For this purpose, an NOV is any formal written notification by the EPA or an authorized State or local environmental regulatory agency of a violation or violations of law or regulation, which applies to the regulatory agency's first level of enforcement action. Warning letters or notices of deficiencies are not NOVs, but are to be included on line 11.

One written notice, regardless of the number of individual violations, findings or citations counts as one NOV. Do not include on line 10 items found to be out of compliance by a regulator, but not set forth in writing.

If the NOV cites violations in more than one media (see NOV Table C-1), then count it as multiple NOVs, one under each of the applicable media categories. Only one message is required, however, the specific information required in this message must be included separately for each media. Generally, lines 1 through 14 of this message will be the same for the different media violations that result from a multimedia inspection. Lines 15 through 24 will be repeated for each media which was cited.

11. Violation description, other than NOV (i.e., NON, Warning letter, Regulatory agency Inspectors Report identifying deficiencies, oral inspection outbriefs). Violations involving more than one media are to be handled in the same manner as NOVs (see line #10).

12. Name of issuing agency and violation number(s).

13. Date of notification (mm/dd/yy). The date that the NOV, etc., was initiated by the regulatory agency (preferably the date on the letterhead).

14. Date of inspection (mm/dd/yy). The date of the inspection during which the violation was detected. If the inspection took several days use the date noted on the NOV, etc., or, if none, then use the date the inspection started.

15. Media (refer to Table B-1). The law under which the violation was issued. If a State or local violation is received, report under the applicable Federal statutes from which the State law or local regulation was derived.

16. Regulation or act cited (with specific section).

17. Permit numbers related to violation.

18. Total number of individual findings issued by regulatory agency. A finding is a specific violation with citation of environmental law or regulation.

19. List each violation separately and classify into one of the following (list should equal total in item 18):

Class A. Releases to the environment

Class B. Violations with the potential to cause a release or damage

Class C. Administrative violations. A specific violation, citation, or finding which occurs as a result of improper paperwork, report filings, or labeling. This not include paperwork associated with permit applications.

If NOV cites violations for more then one media, then indicate, for each violation, the media that is applicable.

20. Was a fine assessed or requested?

21. Dollar amount of fines assessed. Total dollar amount of the fine assessed.

22. Total report fees/reimbursable costs paid to a regulatory agency. Reimbursable costs are those dollars paid to a regulatory agency (over and above assessed fines) for required reimbursement

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of regulatory agency costs in conducting regulatory and enforcement activities.

23. Summary of demand for payment.

24. Was a compliance agreement, negotiation, or agreement requested by the regulatory agency?

25. Summary of proposed agreement or schedule.

26. Nature of response required and date by which it is due to the regulatory authority (e.g., Answer to complaint is due 25 SEPT 94).

27. Have corrective actions been completed? Y or N

28. Is the NOV resolved? Y or N

29. Date of NOV resolution.

30. Has issuing agency concurred with resolution of the issues? Y or N

31. Date of concurrence (mm/dd/yy).

32. Date of last annual or major claimant Environmental Compliance Evaluation (ECE), nature of the ECE (i.e., annual or major claimant) and whether the discrepancy cited was noted on the ECE. (e.g., last annual ECE conducted 5 JAN 84 did not disclose cited violations)

33. Additional information (i.e., unusual circumstances or events leading to NOV).

2.3 Required Follow up Information on NOVs. A follow up message is required for each NOV, written citation, etc. for which an initial message was sent under paragraph 2.2. As with the initial message, one message may be used to report on more than one media as a result of multimedia inspections and violations. The following format shall be used:

FM: NAVY ACTIVITY/SHIP

TO: CNO WASHINGTON DC//N45//

INFO: CHAIN OF COMMAND
LEGSVCSUPPGRU OGC WASHINGTON DC//OAGC(I&E)//
NAVFACENGCOM EFD//JJJ//
REGIONAL ENVIRONMENTAL COORDINATOR/JJJ//
NFESC PORT HUENEME CA//424//
COMNAVFACENGCOM//40//
NAVY JAG ALEXANDRIA//012//

UNCLAS//N05090//

SUBJ: FOLLOW-UP REPORT OF NOTICE OF ENVIRONMENTALVIOLATION/ NONCOMPLIANCE

MSGID/GENADMIN/ORIGINATOR//CODE//
REF/A/DOC/OPNAVINST 5090.1B//
REF/B/DTG OF INITIAL MESSAGE/-VIOLATION NUMBER//RMKS/

1. Activity or ship name in violation.

2. Navy UIC number.

3. Activity address/ship homeport.

4. City (for ships, where violation occurred).

5. State.

6. County.

7. Point of contact for additional information.

8. POC telephone number.

9. EPA region.

10. Date of original notification. The date that the NOV was initiated by the regulatory agency.

11. Was a fine paid? Y or N

12. Dollar amount of fine paid.

13. Defense Environmental Restoration Account (DERA) paid. Total dollar amount of fines dis-

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bursed out of the Defense Environmental Restoration Account for Compliance Environmental Response, Compensation and Liability Act (CERCLA) violations.

14. Was compliance agreement, negotiation or schedule accepted? Y or N.

15. Date of agreement (mm/dd/yy).

16. Is the compliance agreement closed? (Compliance agreement resolved to the satisfaction of the issuing agency).

17. Financial obligation, past and planned, resulting from the Compliance Agreement.

18. Fiscal year(s) for which the financial obligations have been incurred.

19. Dollar amount and appropriation of projected costs resulting directly from Compliance Agreements.

20. Is the NOV resolved. Yes or no. To be resolved, an NOV must be resolved to the satisfaction of the issuing agency. Note that all individual findings, violations, or citations within the NOV must be resolved for the NOV to be considered resolved. Have all issues of the NOV or other enforcement notice been resolved?

21. Date of resolution (mm/dd/yy).

22. Has the issuing agency concurred with resolution of the issues and removed the violation from their active files? Y or N

23. Date of concurrence (mm/dd/yy). The date on which the regulatory agency confirms that all findings are resolved. Notification may be in formal written form or documented conversation.

24. Expected completion date for issues not yet corrected (mm/dd/yy).

25. Summary of reasons for not resolving the issues.

26. Is a compliance project required to achieve compliance with NOV?

27. Has project/Pollution Control Report (PCR) exhibit been submitted to the major claimant? If Military Construction (MILCON) is required, provide project number and program year.

28. A-106 project number. The unique identification number assigned to the project in the A-106 Project Report Form.

29. Additional information.

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MEDIA TYPES

Applicable law	Code
Clean Air Act	A
Clean Water Act	B
Safe Drinking Water Act	C
Resource Conservation and Recovery Act	
Subtitle C: Hazardous wastes	D
Subtitle D: Nonhazardous solid wastes	E
Subtitle I: Underground storage tanks	F
Toxic Substances Control Act	G
Comprehensive Environmental Response, Compensation, and Liability Act	H
Federal Insecticide, Fungicide, and Rodenticide Act	I
Endangered Species Act	J
Historic Preservation Act	K
Archaeological Protection Act	L
Other	Z

Table B-1

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TAB C

FORMAT FOR INDIVIDUAL NOMINATIONS FOR THE SECRETARY OF THE NAVY ENVIRONMENTAL AWARDS

1 Background Information. Include the nominee's name, title or position, employing organization, and DoD employment history.

2 Position Description. Provide a summary of the nominee's major routine duties and responsibilities during the preceding 2 calendar years.

3 Special Accomplishments. Identify, under applicable topical headings, the nominee's special achievements and accomplishments for the preceding two calendar years. Indicate specifically how these efforts and accomplishments exceeded his or her normal duties and responsibilities.

4 Awards and Achievements. List and describe awards and other special recognition given to the nominee during the past 5 years. Describe related professional achievements, including community service work and participation in professional organizations.

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APPENDIX C

EPA REGIONAL OFFICES

Region I
Environmental Protection Agency
John F. Kennedy Bldg. Rm No 2203
Boston, MA 02203
Phone: (617) 565-3715

Region II
Environmental Protection Agency
Jacob K. Javitz Federal Building
26 Federal Plaza
New York, NY 10278
Phone: (212) 264-2657

Region III
Environmental Protection Agency
841 Chestnut Building
Philadelphia, PA 19107
Phone: (215) 597-9800

Region IV
Environmental Protection Agency
345 Courtland Street, N.E.
Atlanta, GA 30365
Phone: (404) 347-4727

Region V
Environmental Protection Agency
77 West Jackson Blvd.
Chicago, IL 60604
Phone: (312) 353-2000

Region VI
Environmental Protection Agency
First Interstate Bank Tower at Fountain Place
1445 Ross Avenue 12th Floor Suite 1200
Dallas, TX 75202
Phone: (214) 655-6444

Region VII
Environmental Protection Agency
726 Minnesota Avenue
Kansas City, KS 66101
Phone: (913) 551-7000

Region VIII
Environmental Protection Agency
999 18th Street, Suite 500
Denver, CO 80202-2405
Phone: (303) 293-1603

Region IX
Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105
Phone: (415) 556-6322

Region X
Environmental Protection Agency
1200 Sixth Avenue
Seattle, WA 98101
Phone: (206) 442-1200

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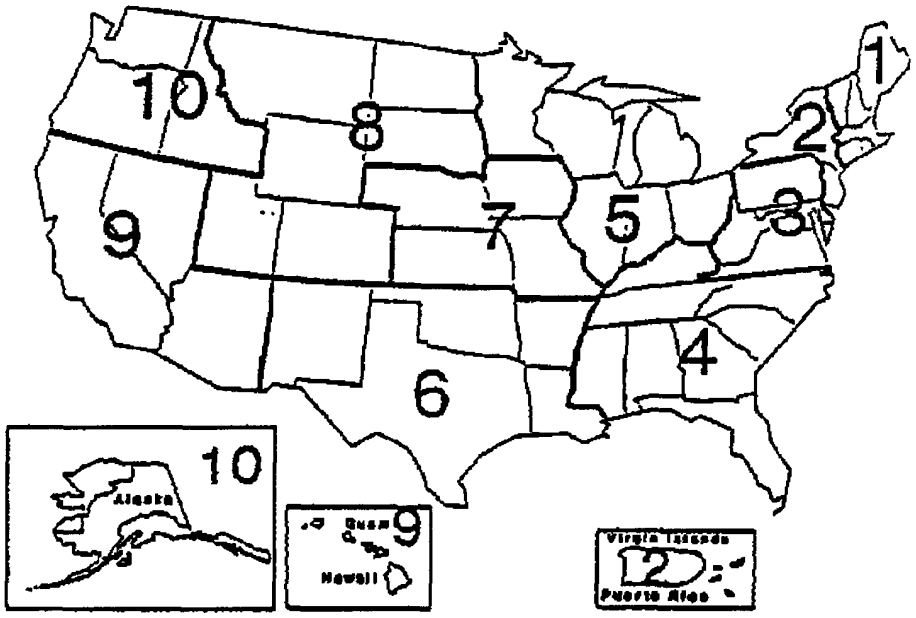
STANDARD EPA REGIONAL BOUNDARIES
TEN REGIONS



Regions		Regions		Regions	
4	- Alabama	1	- Maine	3	- Pennsylvania
10	- Alaska	3	- Maryland	1	- Rhode Island
9	- Arizona	1	- Massachusetts	4	- South Carolina
6	- Arkansas	5	- Michigan	8	- South Dakota
9	- California	5	- Minnesota	4	- Tennessee
8	- Colorado	4	- Mississippi	6	- Texas
1	- Connecticut	7	- Missouri	8	- Utah
3	- Delaware	8	- Montana	1	- Vermont
3	- D.C.	7	- Nebraska	3	- Virginia
4	- Florida	9	- Nevada	10	- Washington
4	- Georgia	1	- New Hampshire	3	- West Virginia
9	- Hawaii	2	- New Jersey	5	- Wisconsin
10	- Idaho	6	- New Mexico	8	- Wyoming
5	- Illinois	2	- New York	9	- American Samoa
5	- Indiana	4	- North Carolina	9	- Guam
7	- Iowa	8	- North Dakota	2	- Puerto Rico
7	- Kansas	5	- Ohio	2	- Virgin Island
4	- Kentucky	6	- Oklahoma		
6	- Louisiana	10	- Oregon		

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APPENDIX D

ENVIRONMENTAL AND NATURAL RESOURCES AWARDS PROGRAM

1 Secretary of the Navy Environmental Awards Program

1.1 Awards Program. SECNAV annually grants Environmental Quality awards to ships, shore activities, and personnel of the Navy Department. SECNAV Environmental Awards are given to stimulate outstanding performance in protecting and enhancing the quality of the environment by citing:

a. The most significant environmental protection program conducted by an industrial installation (an installation with a primary mission of producing, maintaining or rehabilitating military material).

b. The most significant environmental protection program conducted by a non-industrial installation.

c. The greatest initiative taken toward operating in an environmentally acceptable manner by a large Navy ship (crew size greater than 400).

d. The greatest initiative taken toward operating in an environmentally acceptable manner by a small Navy ship (crew size less than 400).

e. An individual who has made significant contributions to the environmental management program during the preceding 2 years.

The winner in each category will be the Navy Department nomination for the DoD Environmental Award.

1.2 Guidelines and Standards

1.2.1 Applicability. The Ship Award Program applies to all Navy ships. The Installation Award Program applies to all Navy Department installations world-wide. However, the DoD Environmental Awards apply only to installations located in the United States, Commonwealth of Puerto Rico, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands. Therefore, a Navy activity not eligible for the DoD Environmental Award can still win the SECNAV Environmental Award. If this occurs, the highest rated installation eligible for the DoD Environmental Award will be submitted as the Navy nomination for the DoD Environmental Award. The Individual Award Program applies world-wide to all Navy personnel, both military and civilian. No ship, installation or individual is eligible to win consecutive awards.

1.2.2 Award Categories. The award is based on achievements of the prior 2 years. Awards will be presented in odd calendar years (e.g., 1995) to an industrial installation and a small ship for achievements during the prior 2 calendar years (e.g., 1993 and 1994). Awards will be presented in even calendar years (e.g., 1996) to a non-industrial installation and a large ship for achievements during the prior 2 calendar years (e.g., 1994 and 1995). Individual awards are eligible for presentation each year. The award citation shall be included in the official personnel file of the individual selected for the award.

1.2.3 Nomination Schedule. The Chief of Naval Operations (CNO) nomination schedule for the SECNAV Environmental Award is as follows:

a. Prior to 1 November, forward appropriate nomination letters via the chain of command to Echelon 2 commanders. Letters shall be accompanied by supportive information for the appropriate award category.

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b. Prior to the end of February, Echelon 2 commanders shall transmit nominations for the appropriate category to Deputy Chief of Naval Operations (DCNO) (Logistics).

c. From mid-March, the SECNAV Environmental Annual Awards Committee shall evaluate nominations and select finalists.

d. Prior to the end of March, SECNAV will announce the winners, issue instructions to cognizant commands regarding awards ceremony and presentations, and submit nominations for comparable DoD Environmental Awards.

1.2.4 Nominations. Each major claimant shall submit a nomination for each award to DCNO (Logistics), for the period ending the preceding December 31. Nominations shall be in a narrative style. They shall be typewritten or printed double-sided on recycled paper and fastened or bound in folders not to exceed 9 x 11 inches. Nominations shall be judged on substantive content and not on elaborateness or art work. The nominations shall be concise and describe the program and accomplishments accurately. Summaries, highlights, explanatory captions, tables, charts, and other formats that clarify the content are encouraged.

1.2.5 Nomination Content. The content of the award nomination shall include:

a. Installation Awards. Nominations shall focus on specific contributions in each program as outlined in Tab A to Appendix D. Initiatives, progress, and achievements shall be described clearly. A nomination may not exceed 50 pages of text including illustrations. The format for nominations is provided in Tab A to Appendix D.

b. Ship Awards. Nominations shall focus on specific contributions in each program as outlined in Tab B to Appendix D. Initiatives, progress, and achievements shall be described clearly. A nomination may not exceed 10 pages of text including illustrations. The format for nominations is provided in Tab B to Appendix D.

c. Individual Awards. Prepare nominations in the format described in Tab C to Appendix D; nominations shall not exceed four typewritten pages in length. The nominee's description shall include special accomplishments and contributions to DoD and Navy goals during the preceding 2 calendar years and specific indications of how the nominee's normal job requirements were exceeded.

1.2.6 Judging Criteria. The following criteria shall be used in judging nominations:

a. Awareness of existing environmental directives and local and State environmental laws

b. Command interest and attention

c. Command relations with community, regional, State, and Federal agencies

d. Motivation and attitude of personnel toward the environmental protection program, as exhibited by their participation in their ship's or shore activity's program

e. Minimization/recycling of hazardous waste (HW)

f. Training of personnel with respect to environmental protection

g. Planning in the areas of air, water, HW, and noise pollution abatement and control

h. Innovation in the improvement of existing equipment of design and development of a new process or unit to solve specific environmental protection problems.

1.2.7 Award Announcement and Presentation. SECNAV will announce the winners of the

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awards. Appropriate award recognition items shall be presented.

1.3 **Responsibilities**

1.3.1 **DCNO (Logistics) or designee** shall coordinate and administer the CNO input to the SECNAV awards program, including amplification of the guidelines provided in paragraph 1.2. An awards committee shall be established to assist in the selection process.

1.3.2 **Echelon 2 commanders** shall:

a. Conduct initial evaluations and submit a nomination per category to DCNO (Logistics). At their discretion, major claimants may nominate two (2) ships per category.

b. Enter nominations only when the activities are truly outstanding.

c. Assist the program by giving appropriate command recognition to subordinate commands excelling in pollution avoidance, abatement and control, and to individuals engaged therein.

2 **SECNAV Natural Resources Conservation Awards Program**

2.1 **Awards Program.** SECNAV annually grants Natural Resources Conservation Awards to:

a. One naval installation which conducted the most outstanding conservation program during the preceding 3 calendar years.

b. One installation runner-up.

c. One individual (military or civilian) who made the most significant contribution to the Navy Natural Resources Conservation Program during the preceding 2 calendar years.

SECNAV may also award citations annually for special achievements in support of the Navy Natural Resources Management (NRM) program to individuals, installations, shore establishment commands, and operating forces commands.

The winners of the SECNAV Natural Resource Conservation Awards will be nominated for the comparable DoD Natural Resources Conservation Awards. These nominees will compete with nominees from the other military services.

2.2 **Guidelines and Standards**

2.2.1 **Applicability.** The Installation Award Program applies to installations and facilities located in the United States, Commonwealth of Puerto Rico, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands. The Individual Award Program applies worldwide. Individual award nominees are not necessarily associated with an installation program.

2.2.2 **Awards Categories.** Installation awards are offered in alternate years, in two categories, to recognize smaller installations (Category A) as well as larger ones (Category B). Category A installations are defined as those with 10,000 acres or less included in the installation integrated NRM plan. Those installations are eligible for nomination in years ending in an odd number. Category B installations are defined as those with over 10,000 acres included in the installation NRM plan. The installations are eligible for nomination in years ending in an even number. An installation is eligible for nomination only when all required sections of the NRM plan and all required cooperative agreements are current or being revised/prepared and will be current before competition for the comparable DoD Natural Resources Conservation Award. An installation winning the SECNAV Natural Resources Conservation Award is ineligible to compete for consecutive awards. However, an installation ineligible to compete for an award is eligible for a special recognition citation.

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2.2.3 Nomination schedule. The CNO nomination schedule for the SECNAV Natural Resources Conservation Award is as follows:

a. Prior to 1 November, forward nominations via the chain of command to Echelon 2 commanders.

b. Prior to the end of February, Echelon 2 commanders shall transmit nominations to DCNO (Logistics).

c. In mid-March, a distinguished judging panel from non-DoD organizations will evaluate nominations and select finalists.

d. Prior to the end of March, SECNAV will announce the winners, issue instructions to cognizant commands regarding awards ceremonies and presentations, and submit nominations for comparable DoD awards.

2.2.4 Nominations. Installation nominations shall be narrative in style, address the items listed in the above, and cover the three year achievement period ending the preceding December 31. They shall be typewritten or printed on double-sided, recycled paper and fastened or bound in folders not to exceed 9 x 12 inches. The submission should not exceed 50 pages including text and illustrations. Appendices directly supporting the text may be added.

2.2.5 Nomination Content. Nominations will be judged on substantive content and not on elaborateness or art work. Prepare nominations so that they can be used by the installation for public and conservation education. Highlights, explanatory captions, tables, charts, or other formats that make the content readily understood may be included. Initiatives and achievements in each area of the natural resources program shall be clearly indicated. Pollution abatement activities may not be included unless they are related directly to natural resources management. Installation nominations shall follow the format provided in Tab D to Appendix D. Supplemental guidance regarding preparation of installation nominations is provided in Tab E to Appendix D. Individual nominations shall be in narrative form, shall not exceed four pages in length, and shall describe the nominee's accomplishments in natural resources management and contributions to the Natural Resources Program during the preceding 2 calendar years. Individual nominations shall follow the format provided in Tab F. Photographs of the individual should not accompany the nomination. Letters recommending a special recognition citation may be submitted to DCNO (Logistics) for consideration by the SECNAV Natural Resources Conservation Awards judging panel.

2.2.6 Judging Criteria. The following criteria shall be used in judging nominations:

a. Installation Nominations.

(1) Awareness of existing directives and applicable laws.

(2) Planning and achievement in the areas of forestry, fish and wildlife, outdoor recreation, endangered species, and land management.

(3) Innovation in management of the natural resources management program.

(4) Command interest and attention.

(5) Designation of an installation natural resources program manager/coordinator.

(6) Training of personnel in natural resources technical duties as well as awareness of the command's specific and unique natural resources.

(7) Command participation and coordination with State, community, and regional natural resources agencies.

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(8) Variety of benefits derived from management of natural resources.

(9) Motivation and attitude of installation personnel toward the NRM program.

(10) Designation of special interest areas including archeological, historical, botanical, zoological, geological, natural, scenic, wild, research, and resource conservation areas.

b. Individual nominations are judged solely on accomplishments which contributed to the Navy Natural Resources Conservation Program.

2.2.7 Awards Announcement and Presentation. SECNAV will announce the winners of the awards. Appropriate award recognition items shall be presented. The individual award citation shall be included in the official personnel file of the individual selected for the award.

2.3 Responsibilities

2.3.1 DCNO (Logistics) or a designee shall coordinate and administer the CNO input to the SECNAV awards program and insure a judging panel is established each year, to judge nomination submittal and recommend winners to the SECNAV.

2.3.2 Echelon 2 commanders shall:

a. Conduct initial evaluations and submit one nomination per category to DCNO (Logistics) prior to 1 March.

b. Enter nominations only when the activities are truly outstanding.

c. Assist the program by giving appropriate command recognition to subordinate commands excelling in forestry, fish & wildlife management, recreation, protection of endangered species, special interest areas and community relations.

3 SECNAV Pollution Prevention Awards Program

3.1 Awards Program. SECNAV annually grants Pollution Prevention awards to:

a. One installation

b. A team, and when feasible, one ship

c. One individual (military or civilian) who made the most significant contribution to the Navy Pollution Prevention Program during the preceding 2 years.

SECNAV may also award citations annually for special achievements in support of the Navy Pollution Prevention Program to individuals, installations, shore establishment commands, and operating forces commands. Recipients of special recognition citations will be selected from nominees for the installation and individual awards, from letters of recommendation from any echelon of command, and from other information sources.

The winners of the SECNAV Pollution Prevention Awards will be nominated for the comparable DoD Pollution Prevention Awards. These nominees will compete with nominees from other military services.

3.2 Guidelines and Standards

3.2.1 Applicability. The Ship Award Program applies to all Navy ships. The Navy Installations Award Program applies to all Navy installations world-wide. However the DoD Environmental Awards program applies only to installations located in the United States, Commonwealth of Puerto Rico, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands. Therefore, a Navy activity not eligible for the DoD Environmental Award can still win the SECNAV Environmental Award. If this occurs, the highest rated installation eligible for the DoD Environmental Award will be submitted as the Navy

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nomination for the DoD Environmental Award. The Individual Award Program applies worldwide to all Navy personnel, both military and civilian. No ship, installation, or individual is eligible to win consecutive awards.

3.2.2 **Award Categories.** The award is based on achievements of the prior 2 years. Awards will be presented in odd calendar years (e.g., 1995) to an industrial installation and a small ship for achievements during the prior two calendar years (e.g., 1993 and 1994). Awards will be presented in even calendar years (e.g., 1996) to a non-industrial installation and a large ship for achievements during the prior 2 calendar years (e.g., 1994 and 1995). Individual awards are eligible for presentation each year. The award citation shall be included in the official personnel file of the individual selected for the award.

3.2.3 **Nomination Schedule.** The CNO nomination schedule for the SECNAV Environmental Award is as follows:

a. Prior to 1 November, forward appropriate nomination letters via the chain of command to Echelon 2 commanders. Letters shall be accompanied by supportive information for the appropriate award category.

b. Prior to the end of February, Echelon 2 commanders shall transmit nominations for the appropriate category to DCNO (Logistics).

c. From mid-March, the SECNAV Environmental Annual Awards Committee shall evaluate nominations and select finalists.

d. Prior to April 22, (Earth Day), SECNAV will announce the winners, issue instructions to cognizant commands regarding awards ceremony and presentations, and submit nominations for comparable DoD Environmental Awards.

3.2.4 **Nominations.** Installation nominations shall be narrative in style, address the items listed in the above, and cover the two year achievement period ending the preceding December 31. They shall be typewritten or printed on double-sided, recycled paper and fastened or bound in folders not to exceed 9 x 12 inches. The submission should not exceed 50 pages including text and illustrations. Appendices directly supporting the text may be added.

3.2.5 **Nomination Content.** Nominations will be judged on substantive content and not on elaborateness or art work. Prepare nominations such that they can be used by the installation for pollution prevention education. Highlights, explanatory captions, tables, charts, or other formats that make the content readily understood may be included. Initiatives and achievements in each area of the pollution prevention program shall be clearly indicated. Installation/ Team nominations shall follow the format provided in Tab G to Appendix D. Individual nominations shall be in narrative form, shall not exceed four pages in length, and shall describe the nominee's accomplishments in pollution prevention and contributions to the Pollution Prevention Program during the preceding 2 calendar years. Individual nominations shall follow the format provided in tab F to Appendix D. Photographs of the individual should not accompany the nomination.

3.2.6 **Judging Criteria.** The following criteria shall be used in judging nominations:

a. Installation Nominations.

(1) Awareness of existing directives and applicable laws.

(2) Planning and achievement in pollution prevention.

(3) Innovation in management of the pollution prevention program.

(4) Command interest and attention.

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(5) Designation of an installation pollution prevention program manager/coordinator.

(6) Training of personnel in pollution prevention.

(7) Command participation and coordination with State, community, and regional agencies.

(8) Variety of benefits derived from pollution prevention.

(9) Motivation and attitude of installation personnel toward the pollution prevention program.

b. Individual nominations are judged solely on accomplishments which contributed to the Navy Pollution Prevention Program.

3.2.7 Awards Announcement and Presentation. SECNAV will announce the winners of the awards. Appropriate award recognition items shall be presented. The individual award citation shall be included in the official personnel file of the individual selected for the award.

3.3 Responsibilities

3.3.1 DCNO (Logistics) or a designee shall coordinate and administer the CNO input to the SECNAV awards program and insure a judging panel is established each year, to judge nomination submittal and recommend winners to the SECNAV.

3.3.2 Echelon 2 commanders shall conduct initial evaluations and submit nominations, with a letter of endorsement for each submittal, to DCNO (Logistics) prior to 1 March.

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TAB A

FORMAT FOR INSTALLATION NOMINATIONS FOR THE SECRETARY OF THE NAVY ENVIRONMENTAL AWARDS

1 Introduction

1.1 Describe the mission, approximate civilian and military population (unless classified) of the installation, and total acreage of the installation.

1.2 Characterize the environmental and geographical setting of the installation.

2 Background

2.1 Summarize the environmental challenges at the installation.

2.2 Describe the organization and staffing of the installation's environmental quality program and the management approach used.

2.3 Describe any installation and community committees or boards that influence the installation's environmental quality program.

2.4 List all environmental plans an agreements and the dates of preparation or last revision.

3 Program Summary

3.1 Describe the objectives of the environmental management program and the degree of attainment of each objective during the past 2 years.

3.2 Describe the most outstanding program features and accomplishments of the past 2 years.

4 Accomplishments. Describe activities and accomplishments during the past 2 years in the following areas (if applicable):

4.1 National Environmental Policy Act (NEPA) Implementation

4.1.1 Detail the proposals analyzed and the NEPA process carried out for each.

4.1.2 Describe the coordination and public involvement techniques used and their effectiveness.

4.1.3 Characterize the methodology for integrating environmental analyses into planning and decision making.

4.2 Air Pollution Control

4.2.1 Detail plant improvements.

4.2.2 Delineate emission sampling and ambient air monitoring efforts.

4.2.3 Describe control of activities in consideration of meteorological conditions.

4.3 Water Pollution Control

4.3.1 Delineate management practices for point and/or non-point sources.

4.3.2 Describe spill prevention and response efforts.

4.3.3 Characterize drinking water protection efforts.

4.3.4 Detail water conservation practices.

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4.4 Noise Pollution Control

4.4.1 Describe noise sources and management methodologies.

4.4.2 Detail planning and zoning authorities efforts.

4.5 Radiation Pollution Control

4.5.1 List radiation sources (unless classified).

4.5.2 Describe control and management methodologies.

4.6 Waste Management and Resource Recovery

4.6.1 Summarize solid waste management efforts.

4.6.2 List source reduction techniques.

4.6.3 List resource recovery techniques.

4.7 Hazardous Waste Management/Installation Restoration

4.7.1 Describe compliance status.

4.7.2 Detail hazardous waste (HW) minimization/recycling efforts.

4.7.3 Characterize the installation restoration program.

4.8 Pest Management

4.8.1 Summarize the elements of and management techniques used in the integrated pest management program.

4.8.2 Describe reductions in pesticide usage and other improvements instituted.

4.9 Environmental Research and Education (on and off installation)

4.9.1 Detail programs to enhance environmental protection ethic and awareness at the installation.

4.9.2 Describe environmental research and development projects.

4.9.3 Identify community involvement activities and affiliation of installation personnel with civic and environmental organizations.

4.9.4 Detail examples of Cooperation with Federal, State and local agencies, organizations, and academic institutions.

4.10 Resource, Recovery, and Recycling

4.10.1 Describe the installation's mission, approximate civilians and military population (unless classified) of the installation.

4.10.2 List all components of the installation's solid waste management program.

4.10.3 Describe any committees or boards that influence the installation solid waste management program.

4.10.4 Describe the most outstanding program features and accomplishments of the past year.

4.10.5 Describe the objectives of the installation's solid waste management program and the degree of attainment of each objective during the past year.

4.10.6 Describe the activities and accomplishments in the following areas:

(1) Community relations, education and outreach (on and off the installation).

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(2) Environmental enhancement/compliance.

(3) Waste management and resource recovery.

(4) Recycling programs.

(5) Reductions achieved.

4.10.7 Nominations. Each major claimant shall submit their awards package in two page narrative form. Submit awards entries, via second echelon command, to COMNAVMILPERSCOM (NMPC-65) by 1 April each year. Entries must meet the criteria established in SECNAVINST 1710.8.

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TAB D

FORMAT FOR INSTALLATION NOMINATIONS FOR SECRETARY OF THE NAVY NATURAL RESOURCES CONSERVATION AWARDS

1 Introduction

1.1 Describe mission or missions carried out on the nominated installation's property.

1.2 List approximate civilian and military population (unless classified) of the installation and all properties that are included in the installation's Natural Resources Management (NRM) plan.

1.3 List the total acres under the installation's NRM plan, followed by a description of program component acreage (improved, semi-improved, and unimproved acreage; acres of managed forests, wildlife, grazing, agriculture, unique natural areas, lakes, or wetlands; miles of streams or coastline;and acres available for hunting, fishing, and other outdoor recreation).

1.4 Characterize significant natural features of the installation, such as geological, botanical, and archeological assets.

2 Background

2.1 List all components of the integrated NRM plan and the dates of preparation or revision of its component parts.

2.2 List the cooperative agreements that support the NRM plan and the dates of preparation or revision.

2.3 Describe the organization and staffing of the installation's NRM program.

2.4 Describe any committees or boards that influence the installation's NRM program.

3 Program Summary

3.1 Describe the most outstanding program features and accomplishments of the past 3 years.

3.2 Describe the objectives of the NRM plan and the degree of attainment of each objective during the past 3 years.

4 Accomplishments. Describe activities and accomplishments in the following areas (if applicable):

4.1 Land Use Management

4.1.1 Explain erosion control and other water quality protection efforts.

4.1.2 Recount water conservation program activities.

4.1.3 Describe agricultural land management actions, including prime and unique farmland protection.

4.1.4 List natural resources improvements and benefits due to outleases.

4.1.5 Present grounds improvements and landscaping projects.

4.1.6 Characterize anti-litter program.

4.1.7 Show where land use management considerations were used in new construction planning.

4.1.8 Describe coordination and cooperation efforts with U.S. Department of Agriculture (USDA) Soil Conservation Service, County Agri-

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culture Extension Service, and other land management agencies.

4.2 Forest Management

4.2.1 Describe multiple-use coordination of forestry, outdoor recreation, wildlife, esthetics, and endangered species.

4.2.2 List reforestation practices.

4.2.3 Characterize timber stand improvement actions.

4.2.4 Explain improvements accomplished in planning, budgeting, and use of manpower, supplies, and equipment.

4.2.5 Recount use of prescribed burning efforts.

4.2.6 Explain establishment and protection of unique forest areas practices.

4.2.7 Describe cooperative efforts with U.S. Forest Service, state forester, and similar groups or agencies.

4.3 Fish and Wildlife

4.3.1 List the variety of species and habitats at the activity.

4.3.2 Describe efforts for the protection of federal- and state-listed threatened and endangered species and their habitats.

4.3.3 Recount effort regarding permanent food plots, wildlife openings, escape cover, etc.

4.3.4 List game and nongame fish and wildlife habitat improvements.

4.3.5 Characterize practices for reintroduction and stocking.

4.3.6 Explain efforts regarding control of degree of access and use of hunting and fishing opportunities by installation personnel and the general public.

4.3.7 Describe improvements in permit program; fee schedule for hunting, fishing, or other opportunities; ratio of permits to general permit versus DoD personnel.

4.3.8 State identification and protection of significant wildlife resources efforts.

4.4 Other Natural Resources. Describe efforts for protection of areas of cultural, archeological, geological, or ecological significance.

4.5 Outdoor Recreation

4.5.1 List parks, camping, picnicking, swimming, hunting, horseback riding, boating, bird-watching, and trails (nature, hiking, and bicycling) at the activity.

4.5.2 Explain off-road vehicle use and control practices.

4.5.3 Describe the permit program.

4.5.4 List the estimated number of visitors (general public and DoD personnel).

4.5.5 Describe cooperation and coordination with Federal, state, and local outdoor recreation agencies.

4.6 Pest management. Explain applications of Integrated Pest Management (IPM) that support and improve the installation's NRM program.

4.7 Conservation Education (on and off installation)

4.7.1 Describe NRM regulations and enforcement program.

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4.7.2 List gun and water safety, woodsmanship, camping, and outdoor ethics programs.

4.7.3 Detail efforts on scouting, public school classes, and other group activities related to natural resources conservation.

4.7.4 Explain research and development activities.

4.8 Community Relations

4.8.1 Describe public awareness programs and involvement in natural resources conservation programs on and off the installation.

4.8.2 List affiliation of installation personnel with civic and private natural resources conservation organizations and professional conservation societies.

4.8.3 Describe cooperation with Federal, state, local and private natural resources conservation organizations and academic institutions.

4.9 Environmental Enhancement. Indicate how accomplishments and improvements in the NRM program have improved the quality of life at the installation and for surrounding communities.

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TAB E

INSTALLATION NOMINATIONS FOR SECRETARY OF THE NAVY NATURAL RESOURCES CONSERVATION AWARDS (SUPPLEMENTAL GUIDANCE)

1 Procedures

1.1 Describe initiatives that go beyond compliance with regulatory requirements and demonstrate leadership in managing natural resources.

1.2 Clearly state program objectives and degrees of achievement.

1.3 List the entire range of natural resources management activity for the installation (for example, erosion control, agricultural outleases, forestry, wildlife, outdoor recreation, historic preservation, etc.). If any pollution abatement accomplishments are included, show the direct relationship to Natural Resources Management (NRM) program objectives.

1.4 Whenever possible, show the use of a variety of techniques and involvements (for example, erosion control to benefit wildlife, recycling program proceeds to finance conservation projects, use of students and youth groups, cooperative arrangements among groups and with other agencies).

1.5 Point out those projects and accomplishments that benefitted neighborhood communities as well as DoD employees.

1.6 Whenever possible, provide evidence of command support and staff and tenant involvement.

1.7 Summarize the scope and status of management plans and agreements.

1.8 Point out examples of compatibility and interdependence of wise management of natural resources and the performance of the military mission.

1.9 Make it easy for judges to see improvements resulting from deliberate scientifically-sound management practices. Draw a picture of the starting point (first year) and the finish (third year). Clearly indicate which resources were applied to achieve the improvements.

1.10 Point out elements of the program and activities that were available to the public; include education efforts.

1.11 Highlight cases of multiple use of natural resources.

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TAB F

FORMAT FOR INDIVIDUAL NOMINATIONS FOR SECRETARY OF THE NAVY NATURAL RESOURCES CONSERVATION AND POLLUTION PREVENTION AWARDS

1 **Background Information.** Include the nominee's name, title or position, employing organization, and DoD employment history.

2 **Position Description.** Provide a summary of the nominee's major routine duties and responsibilities during the preceding 2 calendar years.

3 **Special Accomplishments.** Identify, under applicable topical headings, the nominee's special achievements and accomplishments for the preceding 2 calendar years. Indicate, specifically, how these efforts and accomplishments exceeded his or her normal duties and responsibilities.

4 **Awards and Achievements.** List and describe awards and other special recognition given the nominee during the past 5 years. Describe related professional achievements, including community service work and participation in professional organizations.

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TAB G

FORMAT FOR INSTALLATION AND TEAM NOMINATIONS FOR THE SECRETARY OF THE NAVY POLLUTION PREVENTION AWARDS

1 Introduction. List mission of the activity or installation.

1.1 Provide approximate civilian and military population (unless classified) of the activity or installation

2 Background

2.1 Summarize environmental challenges at the activity or installation.

2.2 Describe the organization and staffing of the team including the functional offices represented and the management approach used.

2.3 Describe any installation or community boards that influence the installation's/team's pollution prevention program or project.

3 Program Summary

3.1 Describe the objectives of the pollution prevention program and degree of attainment of each objective during past 2 years.

3.2 Describe the most outstanding program features and accomplishments of the past 2 years.

4 Accomplishments. Describe activities and achievements during the past 2 years in the following areas (if applicable):

4.1 Acquisition

4.1.1 System design evaluation

4.1.2 System test and evaluation

4.1.3 System manufacturing

4.1.4 Life cycle impacts

4.1.5 Reviews of systems for pollution prevention and source reduction

4.1.6 Involvement of program managers and program executive officers

4.1.7 Impact on logistics support.

4.2 Material Substitution

4.2.1 Military specifications

4.2.2 Military standards

4.2.3 Depot Maintenance Work Requests, Maintenance Cards, Technical Orders

4.2.4 Impacts of substitutes

4.2.5 Environmental problem eliminated

4.2.6 Activities impacted by the substitution, including ability to transfer to other installations, activities, and Military Services.

4.3 Process Modification or Improvement

4.3.1 Original process, including cost to operate, length, efficiency, and environmental impacts

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4.3.2 Changes to the process, including cost to operate, length, efficiency, and environmental impacts

4.3.3 Reductions (risk, cost, emissions, hazardous material use) achieved

4.3.4 Ability to transfer to other installations, activities, and Military Services.

4.4 Improved Material Management

4.4.1 Supply management changes

4.4.2 Savings achieved (risks, costs, hazardous materials).

4.5 Recycling Programs

4.5.1 Type of recycling program

4.5.2 Size of the recycling program

4.5.3 Activities or communities impacted

4.5.4 Reductions in waste streams achieved

4.5.5 Purchases of recycled content goods and materials

4.5.6 Close loop recycling projects

4.5.7 Source reduction projects

4.5.8 Materials removed from the waste stream.

4.6 Education and Outreach

4.6.1 Programs to enhance pollution prevention or recycling awareness at any level or any functional area of the Military Service or Defense Agency

4.6.2 Community involvement, activities, and affiliations of team members with civic and environmental organizations

4.6.3 Cooperation with Federal, State, and local agencies, organizations, and academic institutions.

4.7 Research and Development

4.7.1 Relationship to users

4.7.2 Demonstration of results

4.7.3 Plans for implementation.

4.8 Reductions achieved

4.8.1 Starting and ending point

4.8.2 Method of measurement

4.8.3 Cost saving

4.8.4 Life cycle implications

4.8.5 Risk reductions.

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APPENDIX E

ENVIRONMENTAL EFFECTS ABROAD OF MAJOR NAVY ACTIONS

1 References

1.1 Executive Order (EO) 12114

1.2 DoD Directive 6050.7 of 31 March 1979; (NOTAL)

1.3 DoD Overseas Environmental Baseline Guidance Document (OEBGD)

2 Purpose

Reference 1.1 requires environmental consideration for actions that significantly affect the environment outside the U. S., i.e, the global commons, the environment of a foreign nation, or impacts on protected global resources. By court decision, however, the National Environmental Protection Act (NEPA) and not EO 12114 is applicable to actions that would impact the environment of Antarctica. Applicability is determined by where the impacts on the physical environment occur rather than where a particular action takes place. Reference 1.2 implements reference 1.1 within the Department of Defense (DoD). Reference 1.3 restates, without modifying, the requirements set out in references 1.1 and 1.2.

3 Responsibilities

3.1 Assistant Secretary of the Navy (Installations and Environment) (ASN (I&E)) shall:

a. Serve as the single point of contact for implementation of EO 12114 as required by reference 1.2.

b. Coordinate formal communications with foreign governments concerning environmental agreements, studies or other matters through the Office of the Secretary of Defense/International Security Agency (OSD/ISA) and the Department of State (DOS).

3.2 Deputy Chief of Naval Operations (DCNO) (Logistics) shall:

a. Oversee compliance of subordinate commands with the requirements of reference 1.1, reference 1.2, and this appendix, and initiate timely corrective action as required.

b. As directed by ASN (I&E), coordinate with the President's Council on Environmental Quality (CEQ), Assistant Secretaries of Defense (ASDs), ASN (I&E) and other DoD components and Federal agencies concerned with analysis of environmental effects of major Navy actions.

c. Distribute environmental analyses per reference 1.2 and applicable Federal Register publication(s).

d. Review, coordinate and determine whether to grant requests to modify the requirements for preparation of environmental analysis documents under this appendix or to grant requests for additional exemptions from further analysis in this case of extraordinary circumstances under section 6.g of this appendix.

3.3 Major claimants shall:

a. Oversee compliance with reference 1.1, reference 1.2, and this appendix, initiating timely corrective action as required and keeping DCNO (Logistics) informed.

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b. Conduct required analyses of the environmental effects of actions, including operations and training exercises, for which they are the action proponent.

3.4 Commanders, commanding officers shall:

a. Complete analyses of the environmental effects of proposed actions per the requirements of this appendix before engaging in any action concerning the proposal that does significant harm to the environment or limits the choice of reasonable alternatives, subject to section 3.3c.

b. Forward all documentation under this appendix for which review by the major claimant or superior authority is required.

c. Determine as soon as possible whether emergency circumstances, situations involving exceptional foreign policy and national security sensitivities or similar special circumstances preclude the completion of an overseas environmental impact statement (OEIS), an overseas environmental assessment (OEA), an environmental study, or an environmental review (ER) that would otherwise be required and take steps prescribed in section 6.g.

4 Definitions

4.1 Armed Conflict. Hostilities for which Congress has declared war or enacted specific authorization for the use of armed forces, hostilities or situations for which a report is required by 50 U.S.C. sec. 1543(a)(1) and other actions by the Navy that involves defensive use or introduction of weapons in situations where hostilities occur or are expected.

4.2 Environment. The natural and physical environment. It excludes social, economic and/or other environments.

4.3 Environmental Review (ER). An analysis of the likely environmental issues involved in a proposed action where the environmental impacts of the action will occur in the territory, territorial sea, contiguous zone, or fishery zone of another country. ERs will be prepared either unilaterally by DoD or in conjunction with another U.S. agency, but do not include foreign government participation.

4.4 Environmental Study (ES). An analysis of the likely environmental issues involved in a proposed action where the environmental impacts of the action will occur in the territory, territorial sea, contiguous zone or fishery zone of another country. ESs will be prepared by the United States in conjunction with one or more foreign nations, or by an international body or organization in which the U.S. is a member or participant.

4.5 Federal Action. An action that is implemented or funded directly by the U.S. Government. It does not include actions in which the U.S. participates in an advisory, information gathering, representational, or diplomatic capacity nor does it include actions taken by a foreign government in a foreign country in which the U.S. is a beneficiary of the action or actions in which foreign governments use funds derived indirectly from the U.S.

4.6 Foreign Nation. Any geographic area (land, water, and airspace) that is under the jurisdiction of one or more foreign governments; any area under military occupation by the U.S. alone or jointly with any other foreign government; and any area that is the responsibility of an international organization of governments. Foreign nation includes contiguous zones and fisheries zones regardless of whether recognized by the U.S.

4.7 Global Commons. Geographical areas that are outside the jurisdiction of any nation, and include the oceans outside territorial limits and Antarctica. Global commons do not include

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contiguous zones and fisheries zones or foreign nations.

4.8 Lead Agency. The agency among many preparing, or having taken the primary responsibility for preparing, the environmental documentation required under this appendix, reference 1.1, or reference 1.2.

4.9 Major Action. Action involving substantial expenditure of time, money, and resources that affect the environment on a large geographic scale or has substantial environmental effects on a more limited geographical area and one that is substantially different or a significant departure from other actions previously analyzed with respect to environmental consideration. Whether deployment of ships, aircraft, or other military equipment and manpower constitutes a major action depends on the activities associated with the deployment, the size and duration of the deployment, and the circumstances in the receiving environment.

4.10 Navy Action. A Federal action where the Department of the Navy, Navy or a Navy component has a lead role as compared to other DoD components or U.S. agencies.

4.11 Negative Decision. A record of decision not to prepare an ER, ES, OEA, or OEIS and the facts supporting this decision.

4.12 Overseas Environmental Assessment (OEA). A concise analysis to assist DoD components in determining whether there is potential for significant environmental impacts associated with the proposed action and whether an overseas environmental impact statement (OEIS) is required.

4.13 Overseas Environmental Impact Statement (OEIS). An analysis of the likely environmental consequences of a proposed major federal action. An OEIS is to be considered by DoD components in deciding whether to approve the proposal.

4.14 Protected Global Resource. Natural or ecological resources of global importance that have been designated for protection by the President or, in the case of such a resource protected by international agreement binding on the United States, that have been designated by the DOS.

4.15 United States. All States, territories, and possessions of the U.S. and all waters and airspace subject to the territorial jurisdiction of the U.S.

4.16 Prohibited or Strictly Regulated Toxic Product, Effluent or Emission. For purposes of this appendix, the following materials will be considered to be products, emissions, or effluents that are prohibited or strictly regulated because their toxic effects on the environment create a serious public health risk.

a. Any chemical substance or mixture subject to an order under 15 U.S.C. sec. 2606.

b. Any toxic water pollutant as defined in section 33 U.S.C. sec. 502(13) and regulated under sec. 1317.

c. Any hazardous air pollutant under 42 U.S.C. sec. 112.

d. Any extremely hazardous substance described in 42 U.S.C. sec. 11002(a)(2).

e. Any of the following if not previously prescribed:

(1) Asbestos
(2) Vinyl Chloride
(3) Acrylonitrile
(4) Isocyanates
(5) Polychlorinated Biphenyls (PCBs)
(6) Mercury
(7) Beryllium
(8) Arsenic

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(9) Cadmium
(10) Benzene

5 Policy

5.1 The Navy shall take account of environmental considerations under the general rules of Section 6 and the following sections of this appendix: section 7, when the Navy acts in the global commons and section 8, when the Navy acts in a foreign nation or a protected global resource.

5.2 Foreign policy considerations require coordination through OSD/ISA with DOS concerning environmental agreements, and other formal arrangements. Consultation with DOS is also required in connection with the utilization of additional exemptions from this instruction under paragraph 8.2.2. All coordination and consultation will be accomplished by ASN (I&E) who will in turn coordinate through the OSD/ISA. Informal, working-level communications and arrangements are not included in this coordination requirement. Other than informal working level arrangements, no communication concerning environmental matters shall be transmitted without coordination with DCNO (Logistics).

6 Requirements for All Forms of Analysis. The following requirements apply to all forms of environmental analysis under this appendix:

6.1 A command proposing a major Navy action that has the potential for significantly harming the environment outside the territory of the U.S. shall, before taking any action that significantly harms the environment or eliminates a reasonable alternative, complete an OEIS, OEA, ER or ES, under the provisions of this appendix and references 1.1 and 1.2, unless the proposed action is exempted under section 6.e or is properly the subject of a categorical exclusion in which case the command will document a negative decision.

6.2 Overseas Categorical Exclusions (OCE). Overseas categorical exclusions are routine, recurring, factual situations for which it has been administratively predetermined by the Office of the Under Secretary of Defense, Acquisition and Technology, in consultation with DOS and CEQ, that there will be no significant environmental impact, individually or cumulatively, absent certain extraordinary circumstances. Currently, no OCEs have been approved. Recommendations for establishment of OCEs shall be submitted via the chain of command to ASN (I&E) for submission to OSD. Should OCEs be approved, action proponents will screen the action against approved OCEs, determine whether and OCE is applicable, whether any extraordinary circumstances preclude use of the OCE and if application is still appropriate, document the decision to rely on the OCE using a "negative decision".

6.3 Tiering. Under a tiered analysis only the issues associated with a proposed actions that are currently ripe for decision are studied and subsequent issues are slated for discussion in other documents. Tiered analysis frequently proceeds from broader, programmatic issues in initial analysis to more specific analysis of individual actions. Use of tiered analysis is often more cost effective because it eliminates multiple analyses of the same issues and results in better focused analysis. Action proponents and authorities responsible for oversight should review plans to complete environmental analysis of new actions to determine whether the environmental issues have been the subject of previously tiered analysis or whether the issues can be more effectively analyzed by tiered analysis. Where a decision is reached to use tiered analysis, the earlier analytical documents should identify those reasonably foreseeable issues the analysis of which has been deferred for analysis in subsequent tiers.

6.4 Combining Documents. Environmental documents required by this appendix may be combined with other agency documents to reduce

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duplication. If an environmental statement for a particular action already exists, no new statement is required by this appendix unless substantially changed circumstances exist from those considered in the earlier analysis.

6.5 The commanding officer for the action proponent is responsible for approving a negative decision. The document for the negative decision shall identify the proposed action, succinctly state the decision to forego the preparation of an OEIS, OEA, ER or ES, shall set out the applicable OCE or exemption on which it is based and shall summarize the facts that make up the OCE or exemption applicable. For OCEs, the factual summary shall also include facts that demonstrate that no exceptions to the OCE are applicable. The action proponent shall retain the negative decision document in command files.

6.6 Actions Exempt from Further Analysis. Once it is determined that an action fits into one of the following categories and a negative decision is prepared to document the fact, no further analysis or action under this appendix is required:

a. Navy actions determined not to do significant harm to the environment outside the United States as determined on the basis of an OCE or OEA.

b. Actions taken by the Navy to prepare or assist in preparing recommendations, advice or information in connection with actions taken personally by the President, for example, by signing treaties or other international agreements or Presidential decisions. This exemption does not include Navy actions taken to carry out Presidential decisions after they are issued.

c. Actions taken by or under the direction of the President or a cabinet officer in the course of armed conflict, continuing as long as the armed conflict continues.

d. Actions taken by or under the direction of the President or a cabinet officer when the national security or national interest is involved where the determination that the national security or national interest is involved in the actions of the Department of Defense has been made in writing by the Under Secretary of Defense for Acquisition and Technology.

e. The activities of the office of the Director of Naval Intelligence or other Navy activity utilized under EO 12036.

f. The decisions and activities of the Navy International Programs Office and other responsible Navy offices with respect to arms transfers to foreign nations.

g. Votes and other actions in international conferences and organizations including decisions with respect to representation of U.S. or Navy interests in international organizations and at multilateral conferences, negotiations and meetings.

h. Navy participation in or assistance to disaster and emergency relief actions.

i. Navy action involving export licenses, export permits or export approvals, including advice to the DOS, Department of Commerce (DOC) and, where permitted by law, direct exports of DoD defense articles and services to foreign governments and international organizations.

j. Actions relating to nuclear activities and nuclear material, except actions that provide a foreign nation with a nuclear production or utilization facility, as defined in the Atomic Energy Act, or a nuclear waste management facility.

6.7 Action proponents shall comply with the procedures established in section 6, 7 and 8 unless the DCNO (Logistics) has previously approved modifications in the contents, timing and availabil-

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ity to other Federal agencies and affected nations. The DCNO (Logistics) may, upon request, and proper justification, approve such modifications as are necessary to:

a. Enable Navy authorities responsible for approving a proposed action to decide and act promptly where the exercise of reasonable judgement and application of normal procedures are insufficient to reach a timely decision or take effective action.

b. Avoid adverse impacts on foreign relations in fact or appearance of other nations' sovereign responsibilities.

c. Ensure appropriate reflection of diplomatic factors; international commercial, competitive and export promotion factors; need for government or commercial confidentiality; national security considerations; difficulties in obtaining information or analyzing meaningfully the environmental effects of a proposed action; and the degree to which the Navy is involved in or able to affect a decision. The DCNO (Logistics) shall keep ASN(I&E) advised of all such decisions.

6.8 Emergencies and Other Special Circumstances. With the approval of the Under Secretary of Defense for Acquisitions and Technology and ASN (I&E), the DCNO (Logistics) may exempt a particular action, on a case-by-case basis, from further environmental analysis under reference 1.1, reference 1.2 and this appendix where such exemption is necessary to meet emergency circumstances, national security consideration, exceptional foreign policy requirements and other special circumstances. Action proponents requesting such exemptions must provide sufficient information to justify why modification to the procedure under 6a is insufficient or untimely. Requests for such exemptions will be limited to those specific actions that cannot be accommodated by modified procedures and shall be submitted as expeditiously as possible to allow OSD/ISA consultation with the DOS the CEQ.

7 Requirements for Overseas Environmental Impact Statements

7.1 When to Prepare an OEIS

a. **Actions Affecting the Global Commons and U.S. Exclusive Economic Zone (EEZ).** Under reference 1.1 and reference 1.2, proponents of major Navy actions that significantly harm the environment of the global commons shall prepare an OEIS according to the requirements below. By Navy policy, proponents of major Navy actions that significantly harm the environment between the seaward limit of the U.S. territorial sea and the seaward limit of the U.S. EEZ (200 nautical miles) shall also prepare an OEIS according to the requirements below.

b. **Protected Global Resources.** Reference 1.1 allows an agency to use an OEIS to analyze actions that significantly harm natural or ecological resources of global importance designated by the President or, where protected by treaty, designated by the Secretary of State. By reference 1.2, however, DoD has determined that such actions will be analyze only the use of an ER or ES.

7.2 Overseas Environmental Assessment (OEA)

a. **When to Prepare an OEA.** A component may use an OEA to determine whether preparation of an OEIS is required. OEAs are prepared unilaterally by the U.S. under reference 1.2 and are internal DoD documents that do not require public participation or other attributes under domestic law. The completed OEA shall be made available upon request under the Freedom of information Act (FOIA), 5 U.S.C. sec. 552, subject to restrictions on the release of classified information and other applicable exemptions.

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b. **Requirements for Preparation of an OEA.** The OEA should be concise, normally not exceeding 35 pages. The OEA must include sufficient information, however, to allow the action proponent reasonably to determine whether the proposal is a major Navy action (see Table E-1) that will significantly harm the environment of the global commons or the U.S. EEZ outside the territorial sea. It shall include:

(1) A brief description of the proposed action including its physical features, timetable and operating plan.

(2) The need for action.

(3) Concise discussion of the environmental effects of the proposed action.

(4) Any modifications to the proposed action to minimize any environmental impacts.

c. The last page of an the OEA should summarize the findings and any mitigation measures essential to the final determination of whether the environment will be significantly harmed. The last page should expressly conclude either that (1) No significant harm will occur to the environment, or (2) That on the basis of the OEA the action proponent is unable to determine that no significant harm will occur to the environment and that accordingly an OEIS must be prepared before the proposal is approved.

d. The commanding officer or commander of the action proponent shall sign the OEA and forward it via the major claimant and DCNO (Logistics) to ASN(I&E) for approval. No action will be taken on the proposal that will significantly harm the environment or limit the choice of reasonable alternatives until approval by ASN (I&E). Once approval is obtained, no further delay is required.

7.3 Requirements for Preparing Overseas Environmental Impact Statements (OEIS)

a. Preparation of an OEIS involves a multistage process designed to ensure that the decision-maker on a proposed major Navy action gives the environmental consequences a hard look along with other relevant factors such as mission performance, diplomatic considerations, cost and similar factors. Once the requirements of the process are complete, the decision-maker remains free to approve a proposal even if it is not the environmentally preferable alternative. OEISs should be concise and analytical rather than encyclopedic and descriptive.

b. OEISs shall be prepared unilaterally by the United States but may be made available to foreign governments after coordination through the chain of command and OSD/ISA with the DOS. Informal, working-level communications and arrangements (for example, to obtain unclassified environmental data) are not subject to this coordination requirement. If an action requiring an OEIS also significantly harms the environment of a foreign nation or a resource designated as one of global importance, the OEIS need not consider those additional effects, which will be covered by an analysis covered by section 8.

c. When other Federal agencies are also involved in a proposed major Navy action or other Federal agencies possess specialized expertise relevant to the environmental issues involved in the action, the Navy command preparing the OEIS shall coordinate with the other Federal agency.

d. The last page of an OEIS will summarize the document's findings including any constraints and/or mitigative measures designed to avoid environmental impacts. A responsible official for the action proponent should sign the OEIS recommending approval of its findings and indicating it has been considered in the decision-making process. It should then be forwarded to Chief of Naval Operations (CNO), the major claimant, and

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TABLE E-1
Actions Included

ACTION	REQUIREMENT
Major Navy actions with the potential to significantly harm the environment of the Global Commons or U.S. EEZ outside the territorial sea. See section 7.2	Overseas Environmental Assessment
Major Navy actions that will do significant harm to the environment of the Global Commons or U.S. EEZ outside the territorial sea, or actions for which significant harm cannot be ruled out on the basis of an OEA or OCE. See section 7.1.	Overseas Environmental Impact Statement
Major Navy actions significantly harming the environment of a nation not involved in the action. See section 8.1a	Environmental Review or Environmental Study
Major Navy actions significantly affecting the environment of a foreign nation where the action provide to the affected nation either (1) a prohibited or strictly regulated toxic product, effluent or emission, or (2) a physical project that is prohibited or strictly regulated in the U.S. by Federal law to protect the environment against radioactivity. See section 8.1b	Environmental Review or Environmental Study
Major Navy actions outside the U.S. that significantly harm natural or ecological resources of global importance. See section 8.1c	Environmental Review or Environmental Study
Major Navy actions significantly harming the environment of a nation participating or otherwise involved in the action that do not provide the affected nation with either (1) a prohibited or strictly regulated toxic product, effluent, or emission; or (2) a physical project prohibited or strictly regulate in the U.S. by environmental laws on radioactivity. See sections 7.1 and 8.1.	Negative Decision
The proposed action is determined not to be a major Navy action, is a major Navy action but is exempt under section 6b - 6e, or is determined to lack the potential to significantly harm the environment.	Negative Decision

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the Executive Agent for concurrence and further action.

e. OEISs shall consist of a concise discussion of the environmental effects associated with the proposed action. Normally they will not exceed 100 pages. They shall include the following elements:

(1) A consideration of the purpose and need of the proposed action.

(2) A review of the affected environment.

(3) A description of any adverse environmental impacts that cannot be avoided if the proposal is adopted.

(4) Alternatives to the proposed action (including a no-action alternative).

(5) Actions taken to avoid environmental harm or otherwise to better the environment.

(6) Environmental considerations and actions by other participating nations, bodies or organizations.

f. The OEIS should evaluate reasonably foreseeable significant adverse effects using the best scientific information reasonably available. For purposes of this section, "reasonably foreseeable significant adverse effects" includes those effects that have catastrophic consequences, even if their probability of occurrence is low provided that their analysis is supported by credible scientific evidence, is not based on pure conjecture and is within the rule of reason. If the information on a relevant issue is incomplete or unavailable, and is necessary for a reasoned choice, the action proponent should obtain the information unless the overall costs of doing so are exorbitant when judged against the cost, scope and potential impact of the proposed action. Where the information is not reasonably available because it is restricted by a foreign government, this requirement may be modified under section 6f. Where the information is not reasonably available, the OEIS must identify what information is incomplete or unavailable, discuss its relevance to the evaluation of reasonably foreseeable impacts, summarize existing credible scientific evidence relevant to evaluation of reasonably foreseeable impacts and analyze the reasonably foreseeable impacts based upon theoretical approaches or research methods that are generally accepted in the scientific community.

g. The action proponent for a Navy action requiring an OEIS shall, through the major claimant and Deputy CNO (Logistics), recommend preparation of such a document to ASN(I&E). If ASN(I&E) concurs, the action proponent shall prepare a draft OEIS that is sufficiently complete to permit meaningful analysis and comment. The draft OEIS shall be forwarded via the major claimant, Deputy CNO (Logistics) and ASN(I&E) to provide the DOS, CEQ and other interested Federal agencies with an opportunity to comment. The draft OEIS shall also be made available to the public in the United States for comment. The public OEIS is not normally made available for comment by foreign governments, but may be made available in special circumstances after coordination through the chain of command with the DOS. The comment period normally will last 45 days unless modified under section 6f. Public hearings are not required but may be held, if directed by ASN(I&E) after consultation with OSD/ISA, the DOS, and the CEQ after consideration of the factors listed in section 6f and whether meaningful information can be obtained through such a hearing.

h. After consideration of the comments the draft OEIS will be reviewed as appropriate in light of the issues raised and any new information. A final OEIS will be prepared that responds, either individually or collectively, to the substantive comments received on the draft OEIS. The final OEIS shall include a concise statement that has been considered in the decision-making process and recommending approval of its findings. The commanding officer or commander of the action

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proponent shall sign the OEIS and forward it through the major claimant and Deputy CNO (Logistics) to ASN(I&E) for approval. Action proponents shall not take any action on the proposal that would do significant harm to the environment or eliminate reasonable alternatives until final approval by ASN(I&E), however no additional delay is necessary after approval is obtained.

8 Requirements for Environmental Reviews and Environmental Studies

8.1 When to Prepare an Environmental Review or Environmental Study

a. Under reference 1.1 and 1.2, a proponent of a major Navy action that significantly harms the environment of a foreign nation that is not participating and is not otherwise involved in the action shall prepare either an Environmental Review (ER) or an Environmental Study (ES) according to the requirements below.

b. Action proponents for major Navy actions shall prepare an ER or ES according to the requirements below if the proposed actions do significant harm to the environment of a foreign nation and would provide to the affected nation: (1) a prohibited or strictly regulated toxic product, effluent or emission, or (2) a physical project that in the United States is prohibited or strictly regulated by Federal law to protect the environment against radioactive substances.

c. Action proponents for major Navy actions outside the United States that significantly harm natural or ecological resources of global importance shall prepare either an ER or ES according to the requirements below.

d. For those major Navy actions where either an ER or an ES are called for, the action proponent should utilize an ES unless the analysis will be done unilaterally by the United States. Questions whether the analysis will be unilateral will be referred via the major claimant and Deputy CNO (Logistics) to ASN(I&E), who will consult with OSD/ISA and the DOS as necessary.

8.2 Requirements for Environmental Reviews (ERs)

a. ERs are concise surveys of the important environmental issues involved in a proposed action and are prepared *unilaterally* by the U.S. for actions that significantly harm the environment of a nation not participating with the U.S. and not otherwise involved in the action. They are internal documents for use by the decision-maker and do not involve formal contact/consultation with the host-nation. ERs should be based on reasonably available information and should discuss the issues analytically but in enough depth to allow a reasoned decision on the important issues. Normally should not exceed 25 pages. ERs should include a discussion of the following:

(1) A statement of the action to be taken including its timetable, physical features, general operating plan, and other broad-gauge descriptive factors as appropriate.

(2) Identification of the important environmental issues involved.

(3) Any mitigative actions planned or taken to minimize the impact on the environment.

(4) Reasonably available information on actions of any participating or affected nations relevant to the environmental issues.

b. The last page of an ER will summarize the document's findings including any constraints and/or mitigative measures designed to avoid environmental impacts. The commanding officer should sign the ER recommending approval of its findings and indicating it has been considered in the decision-making process. The completed ER shall be forwarded via the major claimant and

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Deputy CNO (Logistics) for concurrence by ASN(I&E). The action proponent will not take any action significantly harming the environment or eliminating reasonable alternatives until ASN(I&E) concurs.

8.3 Requirements for an Environmental Study (ES)

a. ESs are *bilateral or multilateral environmental studies*, of the likely environmental consequences of the proposed action, prepared by the U.S. and one or more foreign nations or by an international body or organization in which the U.S. is a member or participant. An environmental study is used by Navy decision-makers in determining whether to approve or participate in the proposed action. ESs should incorporate guidelines established for ERs above, and/or guidelines set forth in reference 1.2. Document length will be as required to adequately address the action; usually from 10 to 50 pages.

b. Because an ES is a cooperative, multilateral effort, careful coordination with the DOS through the major claimant, Deputy CNO (Logistics), ASN(I&E) and OSD/ISA is required. The decision whether a proposed action would do significant harm to the environment of a nonparticipating nation normally reached only after consultation with other participating nations. ASN(I&E) will decide for the Navy whether to participate in an ES after consultation with OSD/ISA. Once a decision to conduct an ES has been made, the Navy action proponent will not take any action that would significantly harm the environment of a non-participating nation or eliminate reasonable alternatives until the ES is completed and approved by ASN(I&E).

c. An Environmental Study is generally more detailed than an ERs. It should provide the decision-maker with sufficient information to make an informed decision on the environmental involved in the action before proceeding, but will normally not exceed 50 pages. Although the contents of an ES must be flexible to accommodate both the information that is reasonably available and possible diplomatic concerns, it should include the following:

(1) A general review of the affected environment.

(2) The predicted environmental effects.

(3) Significant known actions taken by the nations participating in the action to protect or improve the environment of the nonparticipating, affected nation.

(4) If no actions are being taken by the participating nations to protect or improve the environment, whether the decision that no such actions would be taken was made by the affected nation or by the participating nations or international organizations.

d. As with ERs, the last page of an ES should adequately summarize the document's findings including any constraints and/or mitigative measures designed to avoid environmental impacts. The commanding officer should sign the ES recommending approval of its findings and indicating it has been considered in the decision-making process. After initial signature on behalf of the Navy and other participants, the ES shall be forwarded via the major claimant and the Deputy CNO (Logistics) to ASN(I&E). ASN(I&E) will coordinate final approval with OSD/ISA and the DOS.

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APPENDIX F

CHIEF OF NAVAL OPERATIONS INTERIM GUIDANCE ON COMPLIANCE WITH THE CLEAN AIR ACT GENERAL CONFORMITY RULE

Appendix F, Chief of Naval Operations Interim Guidance on Compliance with the Clean Air Act General Conformity Rule, was not available at the time of publication. The appendix will be included in a future change of OPNAVINST 5090.1B

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APPENDIX G

GUIDANCE ON DEVELOPING FACILTY POLLUTION PREVENTION PROGRAMS AND IMPLEMENTING POLLUTION PREVENTION PROGRAM ELEMENTS

1. Introductinn. This appendix is for guidance only. Its purpose is to provide assistance in the development of shore facility Pollution Prevention (P2) Programs in conjunction with Federal, State, and local laws and requirements, to outline the principal P2 Program elements, and to offer guidance on implementing those elements.

NOTE:

Applicable State and local codes, standards, and regulations may be and often are more stringent than Federal requirements, especially in regard to environmental programs and hazardous waste (HW) issues.

2. P2 Program Development. The P2 Program outlined herein is essentially a revision to, and expansion of, the Hazardous Material Control and Management (HMC&M) Program previously outlined in guidance enclosed with OPNAVINST 4110.2 (NOTAL). That guidance is herein revised to reflect additional and updated P2 requirements, planning, and nomenclature changes, as well as incorporation of Emergency Planning and Community Right-To-Know Act (EPCRA). All Navy shore facilities should already have well-established HMC&M Programs developed per OPNAVINST 4110.2 (NOTAL). Some shore facilities may also have EPCRA Programs or facility P2 Plans. A facility P2 Program which unifies HMC&M, EPCRA, and P2 planning requirements will provide a single vehicle through which all facility hazardous material acquisition, use, substitution, reduction, accounting, disposition, and emergency planning can be assessed and controlled.

3. P2 Program Elements. The guidance contained herein is based upon the policies and requirements of Chapter 3 and 4 and other Department of Defense (DoD) and Navy instructions that relate to P2, hazardous material (HM) and HW management. This appendix incorporates aspects of existing programs together into a complete P2 effort. Included with the development and implementation of the facility P2 Plan, the P2 Program should incorporate the following elements, which are individually discussed below:

- P2 Committee
- HM Inventory
- Material Safety Data Sheets (MSDSs)
- Labeled HM and HW Containers
- The Safe Use of HM
- HM Acquisition Controls and Authorized User List (AUL)
- Safe and Controlled Receiving, Distribution, Issuing, and Shipping of HM
- Storage of HM
- Management of HW
- Emergency Response Planning
- Shore Facility Oversight of P2 Activities
- Recordkeeping and Reporting.

a. **P2 Committee.** The P2 Committee should be established to advise the commander or commanding officer on the policies and procedures to implement a facility P2 Program and to assist in the implementation of that Program. The P2 Committee should be multi-disciplinary and bring together the various organizations and groups having functional responsibilities and authority over HM acquisition,

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use, etc. The chairperson of the committee should be the commander, or designee (e.g., command staff officer). Tab A of this appendix provides a typical committee charter, committee composition, and functions.

b. **HM Inventory.** A current inventory of HM, hazardous chemicals, or chemical substances known or suspected to contain HM should be developed and maintained to control and manage material, per this instruction and OPNAVINST 5100.23D (NOTAL), and should be maintained in a central reference location. Each HM on the inventory should be identified by storage and use location(s) and should be assigned a unique identifier that relates it to a specific MSDS. Also, a list of hazardous chemicals is a requirement of the Occupational Safety and Health Act (OSHA) Hazard Communication (HAZCOM) Standard (29 CFR 1910.1200) and including the identifier information on the inventory will also help fulfill that requirement. A HM inventory which provides a MSDS identifier and which identifies material storage and use locations will also be an aid in:

(1) MSDS filing and providing a ready means of MSDS access for use by non-technical or emergency response personnel.

(2) Assuring that proper controls are in place for HM storage and use, HAZCOM training, Spill Prevention, Control and Countermeasures (SPCC) Plans, and Spill Contingency Plans (SCPs).

(3) Facilitating emergency notification of a Local Emergency Planning Committee (LEPC) per EPCRA Section 304, in the event of a release of a reportable quantity of material.

(4) Determining EPCRA Sections 302 and 311 reporting thresholds and EPCRA Section 313 releases.

(5) Completing EPCRA Sections 311 and 312 reports, including Section 312 Tier II reports.

(6) Creating and maintaining an AUL to be used to control HM acquisition and use (see paragraph 3.g).

(7) Forming the basis for eliminating or disposing of unneeded materials safely and properly.

c. **MSDSs.** The HAZCOM Standard requires that each shore facility using HM in its work operations and processes possess a manufacturer's MSDS for each HM item on hand and that it be easily accessed by workers. For material not having a MSDS, a shore facility should take the necessary action to obtain one. MSDSs are a key to identifying HM at the shore facility and for supporting the facility's MSDS focal point in the following functions:

(1) Reviewing manufacturer-supplied MSDSs to ensure that required data elements are completed and to identify materials containing hazardous ingredient(s).

(2) Participating in the DoD Hazardous Material Information System (HMIS) for locally procured HM.

(3) Ensuring proper labeling and the using of safe working quantities of HM in the workplace.

(4) Informing employees and contractors of hazards (see paragraph 3f(4)) and safeguards for those HM to which they may be potentially or occupationally exposed.

d. **Labeled HM and HW Containers.** Each container of material possessing hazardous ingredients should be properly labeled by the manufacturer and/or shipper(s) to warn personnel

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of the potential dangers of the material. In the event warning labels are inadvertently removed or damaged in shipping prior to receipt by shore facilities, commercial suppliers should be required to provide HAZCOM-compliant replacement labels. Facilities are not required to put DoD or other HM warning labels on new stocks because the manufacturer is responsible for placing HAZCOM-compliant labeling on such stock. Shore facilities are not to relabel existing stocks that conform with the HAZCOM Standard. Requirements for labeling are described below:

(1) 29 CFR 1910.1200 provides labeling requirements for workplace use of HM. This OSHA standard requires that containers of HM be labeled, tagged, or marked with the identity of the hazardous chemical(s); appropriate hazard warnings; and the name and address of the chemical manufacturer, importer, or other responsible party. In addition to OSHA labeling requirements, Federal and military marking standards (Federal Standard No. 123 (NOTAL) and Military Standard 129 (NOTAL)) require precautionary labeling to guide those who use and handle HM.

(2) The Environmental Protection Agency (EPA), Consumer Product Safety Commission (CPSC), Food and Drug Administration (FDA), and Bureau of Alcohol, Tobacco, and Firearms (BATF) also require labeling of HM and HW under their jurisdiction. When labeling requirements are met under EPA, CPSC, FDA, or BATF, specific labeling requirements under the OSHA HAZCOM Standard are not required.

(3) DOT labeling and marking requirements apply to the transportation and shipping of HM. Facilities are to use 40 CFR 172.101 to determine labeling requirements.

(4) Bulk storage tanks, piping, vats, or similar vessels should be labeled using the DoD Hazardous Chemical Warning Label, DD 2521 and DD 2522, when other means, such as placards, are not available or adequate to meet HAZCOM requirements. Repackaged containers or breakdown quantities of hazardous chemicals and unlabeled or improperly labeled HM already in the Navy inventory should be labeled using the DoD Hazardous Chemical Warning Label.

(5) The DoD label can be applied with variations. Color DoD labels may be used. The size of the DoD label may be locally varied to fit the size and shape of the container being labeled. Local reproduction of the DoD label is authorized.

NOTE:

National Fire Protection Association (NFPA) Labels used alone or without a HAZCOM compliant label are not adequate to meet the HAZCOM standard.

e. **The Safe Use of HM.** HM should be handled and used only under the following minimum safety conditions:

(1) The HM appears on the HM AUL for the workplace/workcenter in which it is used. This implies that procedures for and conditions of HM use have been evaluated and approved.

(2) The HM is stored and used in only the minimum quantity required to accomplish the mission.

(3) Personal protective equipment and requisite safety, emergency, and spill cleanup and containment equipment are readily available.

(4) Employees are adequately informed and understand HM hazards and necessary protective measures via HAZCOM training (i.e., training on the safe use of the material, HM warning properties, needed safeguards and

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personal protective equipment, proper disposal techniques and procedures, and access to MSDSs). OPNAVINST 5100.23D (NOTAL) provides information concerning HM/HAZCOM training programs. In addition to training, the OSHA HAZCOM Standard requires that each facility prepare and keep current a HAZCOM Program Plan.

(5) Contractors are to be informed of HM that they may be exposed to and inform a designated facility person of HM to which Navy personnel may be exposed. Similarly, contractors must make MSDSs for their HM available to the supported facility. Pending a change to the Defense Federal Acquisition Regulations Supplement (DFARS), a locally developed clause to the effect that "Contractors shall inform the designated facility representative of all contractor used HM to which Navy personnel are exposed and shall provide MSDSs for those materials to the facility representative" should be developed.

(6) Local procedures are developed and implemented to ensure that employees performing non-routine tasks involving HM are trained, equipped, and kept under appropriate medical surveillance in advance of such work to the same extent as required for routine exposure situations.

f. **HM Acquisition Controls and AUL.** Local procurement controls and audits should be established that are sufficiently stringent to ensure that only HM on the facility AUL is procured and that manufacturers are complying with labeling and warning requirements and are supplying MSDSs with their material. The baseline facility AUL can be developed directly from the facility HM inventory. At a minimum, the AUL should denote a specific MSDS identifier, storage and usage location, and local workcenter or code authorized to request the purchase and use of a HM (for each HM listed in the inventory). Facility-specific acquisition and AUL policies and procedures should address the following:

(1) Requestors of HM be required to request only authorized HM in approved, minimum quantities, whenever possible. Likewise, workcenter-specific AULs should be made available to those responsible for requesting HM.

NOTE:

Obtaining and reviewing a MSDS should be a prerequisite for placement of HM on the AUL.

(2) Requisition review prior to the issuance of any purchase order for HM be instituted to ensure that only authorized HM is being purchased. Also, conditions and procedures for adding or deleting HM or authorized workcenters from the AUL should be established.

(3) All purchase orders for HM should include appropriate clauses to ensure proper labeling of HM containers and delivery of an MSDS with the HM shipment.

(4) HM requisitions should clearly designate the user code, workcenter, or shop so that incoming MSDSs can be routed to the central MSDS reference files, HM user codes, and others having a need for current MSDS data.

g. **Safe and Controlled Receiving, Distribution, Issuing, and Shipping of HM.** Local policy should address specific functions as follows:

(1) Material inspection upon receipt to determine if it is HM and if it is on the AUL, if it is adequately labeled, and if a MSDS is supplied. If the material is HM and does not conform to established standards, specifications, and regulations, it should be placed in appropriate temporary hold until manufacturer-supplied labels, MSDSs, or acceptable substitutes are obtained.

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(2) Prompt and safe storage for incoming HM deliveries.

(3) Obtaining and maintaining MSDSs and technical data for stocked HM.

h. **Storage of HM.** HM should be stored in minimum required quantities. MSDSs and HMIS provide useful information on warehouse storage and storage compatibility codes for HM. All locations for temporary and permanent storage for HM and HW, including bulk storage and tanks, must be approved by the commanding officer or designated representatives (the use of underground storage tanks is discouraged). Navy shore facilties shall not store or dispose of non-Navy-owned HM except in certain specific instances. Questions may be referred to the Engineering Field Divisions (EFDs) of the Naval Facilities Engineering Command (NAVFACENGCOM).

i. **Management of HW.** HW Management plans must be referenced in, or incorporated into P2 Plans. See Chapter 12 for HW management requirements.

j. **Emergency Response Planning.** Written emergency procedures or Spill Contingency Plans (SCPs) shall be referenced in, or incorporated into P2 Plans. See Chapter 10 for SCP requirements.

k. **Shore Facility Oversight of P2 Activities.** The commanding officer should designate a person(s) or organizational entity to develop a written annual review of the shore facility's P2 Program to assess its attainment of objectives, the effectiveness of its P2 Plan, and to recommend changes and improvements to the plan. The review should be provided to the P2 Committee for discussion and development of appropriate responses, including changes to the P2 Plan.

l. **Recordkeeping and Reporting.** Recordkeeping and reporting is essential to P2. The following summarizes recordkeeping and reporting requirements of OPNAVINST 5100.23D (NOTAL): (It should also be noted that EPA has authorized State environmental agencies to administer HW programs; consequently, many of the following reports will be submitted to States depending upon circumstances.)

(1) Inventory of HM. Data elements identified in paragraph 3b may be supplemented with additional ones to meet shore facility needs for inventory control, occupational health surveillance, hazard communication training requirements, and EPCRA planning requirements.

(2) Training Records. Records of individuals' HAZCOM training accomplishments should be maintained at the shore facility per OPNAVINST 5100.23D (NOTAL). See the basic instruction for the additional recordkeeping requirements needed to conform with Resource Conservation and Recovery Act (RCRA) training requirements.

(3) HW Generator Recordkeeping. See Chapter 12.

(4) Approaches to Implementing the Program Elements. Commanders and commanding officers have options for organizing and implementing the P2 Program. Principal among these are:

(a) Formally establish the P2 Committee as discussed in paragraph 3a. and staff and charter that committee as recommended in Tab A of this appendix.

(b) Use available command or shore facility staff to plan, direct, manage and administer the P2 Program. Utilize standard staff direction, coordination and interaction requirements. Refine the existing responsibilities

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and functions of Supply, Procurement, Occupational Safety and Health, Medical, Industrial Hygiene, Public Works (and Facilities Engineering), etc., to include specifics with regard to P2. Assign, as needed, P2 tasks and program responsibilities to other staff and organizational elements. These include production, maintenance, personnel, supervisors, and others. A formalized command and shore facility P2 instruction which establishes actions and responsibilities should be issued.

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TAB A

POLLUTION PREVENTION COMMITTEE
(Typical Committee Charter - For Guidance, Not Mandatory)

Purpose: To provide multidisciplinary and interdepartmental advice to the commander on the implementation of the shore facility Pollution Prevention (P2) Program and to assist in the implementation of that program.

Chairperson: The commander or designee (e.g., the command staff officer).

Membership: Committee membership should be tailored to local needs and requirements and should include at least one alternate member for each designee. Personnel from tenants and other supporting organizations should be included as needed. Representatives of the following shore facility organizations or functions are appropriate for committee membership:

Environmental Engineering/Compliance

Occupational Safety and Health

Supply (Material Procurement, Receiving, and Shipping)

Operations (Production, Mission, etc.)

Public Works Center

Technical Specialist (chemist)

Production Planning/Engineering

Quality and Reliability Assurance Department

Emergency Response Personnel

Functions:

a. Integrate facility pollution prevention planning, Hazardous Material Control and Management (HMC&M) and Emergency Planning and Community Right-To-Know (EPCRA) programs into a coordinated P2 Program.

b. Formulate recommendations to the commander on all aspects of the facility P2 Program, including hazardous material (HM) source reduction and reuse, hazardous waste (HW) minimization and recycling, environmental concerns and impacts, and the safe storage, use, treatment, and disposal of HM.

c. Manage the facility HM authorized use list (AUL) and advise the commander on procedures to develop, review, edit, audit, and approve the AUL.

d. Prepare the facility P2 Plan in which P2 opportunities (i.e. substitute processes or materials which will reduce HM usage and/or HW generation) are identified and a plan of action and milestones (POA&M) for implementation of those opportunities are established.

e. Periodically review facility operations that involve HM to identify P2 opportunities and to reconcile actual HM present with the AUL. Report any HM on-hand/AUL discrepancies with suggestions for corrective action to the commander.

f. Recommend limitations on HM both used and stored for various operations and processes.

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g. Meet quarterly or upon the call of the chairperson, whichever is shorter, and maintain records of all meetings and actions of the P2 Committee.

h. Maintain HM and HW storage site approval authority.

i. Approve all methods and procedures for P2, HM and HW management, and EPCRA data collection.

j. Establish P2 awareness training program.

k. Review internal HM and HW reviews and audits, monitor HM storage and usage and HW generation trends, make recommendations designed to improve P2 Program effectiveness, and formulate and propose annual pollution reduction goals to the Commander.

l. Make recommendations to facilitate worker access of Material Safety Data Sheets (MSDSs) and concerning local exemptions and exclusions of occupations and locations involved with HM (e.g. administrative areas, offices).

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APPENDIX H

OIL SPILL REPORT (MESSAGE REPORT)

1. **Precedence (for messages only).** Oil spill messages will normally be by routine precedence provided prior telephone report has been made; if not, use priority precedence.

2. **Classification or Special Handling Marking.** Spill reports are unclassified and do not warrant special handling markings unless classified or sensitive unclassified information must be incorporated. Inclusion of such information should be avoided to the maximum extent possible to permit such reports to be handled on a solely unclassified basis.

3. **Addressee and info blocks** for oil spills to waters of the United States and its contiguous zone:

FM: Navy Activity/Ship (spiller)

TO: NOSC (see Chapter 10 or 19)

Operational Commander

INFO: CNO WASHINGTON DC//N45//

C O M N A V S E A S Y S C O M WASHINGTON DC//00C//

NFESC PORT HUENEME CA//112//

COGARD NATIONAL RESPONSE CENTER WASHINGTON DC//JJJ//

MAJOR CLAIMANT//JJJ//

NAVPETOFF ALEXANDRIA VA//JJJ//

[and other organizations, as appropriate]

4. **Addressee and info blocks** for oil spills to waters of foreign countries and international waters:

FM: Navy Activity/Ship (spiller)

TO: NOSC (see Chapter 10 or 19)

Operational Commander

INFO: CNO WASHINGTON DC//45//

NFESC PORT HUENEME CA//112//

C O M N A V S E A S Y S C O M WASHINGTON DC//00C//

MAJOR CLAIMANT//JJJ//

NAVPETOFF ALEXANDRIA VA//JJJ//

[and other organizations, as appropriate]

5. **Body of Report for all oil spills.** The body of the message will be in the following format:

UNCLAS//NO5090//

SUBJ: OIL SPILL REPORT (REPORT SYMBOL OPNAV 5090-2) (MIN: CONSIDERED)

MSGID/GENADMIN/ORIGINATOR//

RMKS/

1. GMT DTG RELEASE OCCURRED/ DISCOVERED.

2. ACTIVITY/SHIP ORIGINATING RELEASE: (for ships: list name, hull no., and

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unit identification code (UIC); for shore activities: list name, UIC; for non-Navy spills discovered by Navy activity: list name of responsible party (if from commercial firm under contract to Navy: list names of firm and contracting activity); for spills from unknown source: indicate whether spill is thought to have originated from Navy operations).

3. SPILL LOCATION: (for spills at sea: list latitude, longitude, and distance to nearest land; for spills in port: list port name and specific location (pier or mooring designation, etc.); for spills ashore: list specific location within activity (building or area designation, etc.)).

4. AMOUNT SPILLED IN GALLONS: (best estimate; if oil/water mixture, indicate percentage oil).

5. TYPE OF OIL SPILLED: (choose one: diesel fuel marine (DFM); naval distillate; Navy special fuel oil (NSFO); jet fuels (JP-4, JP-5); aviation/automotive gasoline; automotive diesel; heating fuels (grades 1 and 2, kerosine); residual burner fuel (grades 4, 5, and 6/bunker C); lube/hydraulic oils; oil/oil mixture (including slop and waste oils); oil/water mixture (including bilge waste); Other (specify); unknown (provide best estimate, if possible)).

6. OPERATION UNDER WAY WHEN SPILL OCCURRED: (choose one: fueling/defueling; internal transfer of fuel (includes transport of fuel from one storage area to another); bilge dewatering (including donut operations); salvage; other (specify); unknown).

7. SPILL CAUSE: (provide narrative description of specific spill cause; indicate if one of the following was principal cause: structural failure (specify); hose failure or leak; other type equipment failure (specify); collision/grounding/ sinking; valve misalignment; monitoring error; other procedural/communications error (specify); other (specify); unknown).

8. SLICK DESCRIPTION AND MOVEMENT: (size: length and width; color (choose one): barely visible, silvery, faint color, bright color bands, dull brown, or dark brown; on-scene wind: direction, speed; sea state; slick movement: direction, speed).

9. AREAS DAMAGED OR THREATENED: (name of body of water affected; nature and extent of damage to property, wildlife, or other resources (if any); areas or resources threatened).

10. TELEPHONIC REPORT TO Nucluear Regulatory Commission (NRC) WAS/WAS NOT MADE. (If made, report number and person receiving report.)

11. SAMPLES WERE/WERE NOT TAKEN.

12. CONTAINMENT METHOD PLANNED/USED: (if none, state reason; indicate which of the following equipment utilized: boom; ship's hull; camel; water spray; chemical agent (specify); other (specify)).

13. SPILL REMOVAL METHOD PLANNED/USED: (if none, state reason; indicate which of the following equipment utilized: DIP 1002 skimmer; DIP 3002 skimmer; SLURP skimmer; nyc (oil-absorbing pads, chips, or other materials); dispersants; vacuum trucks/pumps; other (specify)).

14. PARTIES PERFORMING SPILL REMOVAL: (indicate one or more of following: Navy (specify lead organization in charge); commercial firm under contract to Navy; USCG; EPA; State or local agency; other (specify)).

15. ASSISTANCE REQUIRED/ADDITIONAL COMMENTS.

16. STATE AND LOCAL CORRECTIVE ACTION TAKEN (IF APPLICABLE)

17. ACTIVITY CONTACT FOR ADDITIONAL INFORMATION: (name, code, Autovon and/or commercial).//

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APPENDIX I

HAZARDOUS SUBSTANCE RELEASE REPORT (MESSAGE FORMAT)

1. Precedence (for messages only). Hazardous Substance (HS) release messages will normally be by routine precedence, provided prior telephone report has been made; if not, use priority precedence.

2. Classification or Special Handling Marking. Spill reports are unclassified and do not warrant special handling markings unless classified or sensitive unclassified information must be incorporated into the report. Inclusion of such information should be avoided to the maximum extent possible to permit such reports to be handled on a solely unclassified basis.

3. Addressee and Info Blocks for HS releases in the United States territories , possessions, and its Contiguous Zone:

FM: Navy Activity/Ship (spiller)

TO: NOSC (see Chapter 10 or 19)

Operational Commander (ships)

INFO: CNO WASHINGTON DC//N45//

C O M N A V S E A S Y S C O M WASHINGTON DC//00C//

NFESC PORT HUENEME CA//112//

COGARD NATIONAL RESPONSE CENTER WASHINGTON DC//JJJ//

MAJOR CLAIMANT//JJJ//

LEGSVSSUPGRU OGC//ELO//

4. Addressee and Info Blocks for HS Releases in Foreign Countries and International Waters:

FM: Navy Activity/Ship (spiller)

TO: NOSC (see Chapter 10 or 19)

Operational Commander (ships)

INFO: CNO WASHINGTON DC//N45//

NFESC PORT HUENEME CA//112//

C O M N A V S E A S Y S C O M WASHINGTON DC//00C//

MAJOR CLAIMANT//JJJ//

5. Body of report for all HS releases. The body of the message will be in the following format:

UNCLAS//N05090//

SUBJ: HS RELEASE REPORT (REPORT SYMBOL OPNAV 5090-3) (MIN: CONSIDERED)

MSGID/GENADMIN/ORIGINATOR//

RMKS/

1. GMT DTG RELEASE OCCURRED/DISCOVERED.

2. ACTIVITY/SHIP ORIGINATING RELEASE: (for ships: list name, hull number; for shore activities: list name, unit identification code (UIC); for Navy releases that occurred during transportation: list name of activity responsible for

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shipment; for non-Navy releases: list name of responsible party (if from commercial firm under contract to Navy: list names of firms and contracting activity); for unknown source releases: indicate whether release is thought to have originated from Navy operations).

3. RELEASE LOCATION: (for releases at sea: specify latitude, longitude, and distance to nearest land; for releases in port: list port name and exact location (pier, warehouse, etc.); for releases ashore: within activity specify exact location (building or area designation, etc.); during transportation: give exact location (highway and miles from nearest city; or street name, number, and city)).

4. TYPE OF OPERATION AT SOURCE: (plating shop, painting shop, hazardous waste (HW) facility, truck, ship, pipeline, ship rebuilding, entomology shop, etc. Be specific.)

5. TYPE OF CONTAINER FROM WHICH SUBSTANCE(S) ESCAPED: (55-gal drums, 5-lb bags, tank truck, storage tank, can, etc. Estimate number of containers damaged or dangerously exposed.)

6. DESCRIPTION OF HS RELEASED: (consider container labels and user directions, hazardous material (HM) reference books, personal knowledge, expert's advice, etc. Be concise but complete.). Determine if material is an Extremely Hazardous Substance.

If substance(s) known: give chemical and/or product names, formula, synonym(s) (if known), physical and chemical characteristics, and inherent hazards. EXAMPLE: Label on container identifies substance released as acrylonitrile. Synonyms: cyansethylene, vintleyanide. Characteristics and hazards: poisonous liquid and vapor, skin irritant, highly reactive and flammable.

If substance(s) unknown: describe appearance, physical and chemical characteristics, and the actual and potential hazards observed. EXAMPLE: Substance released is a colorless to light yellow unidentified liquid; highly irritating to eyes and nose; smells like kernels of peach pits. Is vaporizing quickly, posing ignition problem.

7. FIELD TESTINGS: (if none, so state; indicate findings and conclusions (i.e., concentrations of substance(s) present, Ph, etc.), of any analyses).

8. ESTIMATED AMOUNT RELEASED: (use convenient units of weight or volume (kg, lb, gallons, liters, etc.). For continuous release, estimate rate of release and amount left in container).

9. CAUSE OF RELEASE: (describe the specific cause of release; account for any personnel error, equipment failure, accident, or act of God directly contributing to the release. EXAMPLE: Railing supporting 55-gal drums on a flatbed truck gave way because it was not securely fastened, causing seven drums to fall and fracture.)

10. RELEASE SCENE DESCRIPTION: (describe scene of release; include information about the physical characteristics; size and complexity of release; and the actual and potential danger or damage to the immediate area and the surrounding environment, including weather conditions if relevant. EXAMPLE: Solvent released formed shallow pond covering area about 30 ft by 45 ft of bare soil. Solvent is slowly running off in to floor drain leading to storm drain and is also infiltrating soil. Pond is emitting highly toxic and flammable vapors. Dark clouds threatening to rain. Wind speed about 10 miles/hour, drifting vapors northbound to residential area. Vapors form layer about 30 ft above ground.)

11. NOTIFICATIONS MADE AND ASSISTANCE REQUESTED: (list all organizations informed of the release in and out of Navy jurisdiction; include Navy, Federal, State, and local authorities, National Response Center

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(NRC) response teams, fire departments, hospitals, etc; specify kind of assistance required from these organizations.)

12. DESCRIBE CONTROL AND CONTAINMENT ACTIONS TAKEN/PLANNED: (if none, state why; specify method used to control and contain release; indicate parties carrying out response. EXAMPLE: Gas barriers used to control and contain vapor emissions. Runoff contained by excavating ditch circumscribing affected area. In-house personnel and members of city of Portstown fire department carried out containment actions.

13. DESCRIBE CLEAN-UP ACTIONS TAKEN/PLANNED: (if none, state why; indicate whether cleanup is made by on-site or off-site treatment, the method used, the parties involved in cleanup/removal, and the eventual disposal area. EXAMPLE: No clean-up action taken. Toxic vapors present, potential danger to clean-up crew. Contaminated soil will be excavated and shipped by on-base personnel to Class 1 HW disposal site in Portstown, CA, when conditions allow.)

14. CONTACT FOR ADDITIONAL INFORMATION: (name, code, Autovon, and/or commercial number).

15. STATE AND LOCAL CORRECTIVE ACTION TAKEN (IF APPLICABLE).

16. ADDITIONAL COMMENTS.//

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APPENDIX J

SOLID WASTE - SOURCE SEPARATION FACTORS FOR ECONOMIC ANALYSIS

1.1 Determine the approximate quantity of materials that will be source separated, locations where each type of material would be stored for pick up and frequency of required pick up as influenced by economic, environmental, hygienic, aesthetic and safety requirements.

1.2 Request from Defense Reutilization and Marketing Office (DRMO) a determination of local markets for those items listed in paragraph 14-4.4.1.1 and 14-5.4.1.4, as applicable. Information to be obtained from DRMO should include:

a. Market price, including cost for disposal

b. Prognosis of price future

c. Pick up point changes

d. Any preparation required, such as baling, special tying, etc.

1.3 If there is no market, determine cost avoidance for disposal as municipal solid waste.

1.4 Determine how and the cost of any necessary preparation of the material is to be accomplished, i.e., baling, tying, banding, etc.

1.5 Determine the cost and how the program would be implemented and publicized. Examples are:

a. Directives

b. Bulletins

c. Base newspapers

d. Other.

1.6 Determine the cost and the reduction in general refuse quantity that would result from source separation. Examples are:

a. Office white ledger paper. Experience has shown that 0.5 lbs per office worker per day could be source separated. Vary to suit local conditions.

b. Computer printout and other high grade paper. Variable. Must be estimated locally.

c. Corrugated cardboard. Variable. Must be estimated locally.

d. Newspaper. Experience has shown that 0.3 lbs of newspaper per resident per day could be source separated. Vary to suit local conditions.

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Appendix K

AFLOAT ENVIRONMENTAL CHECKLIST

The following checklist was developed to help afloat commands in conducting in conducting self evaluations of their environmental compliance procedures, practices, and training. This checklist shall be used by the immediate superior in command (ISIC) in environmental compliance inspections of subordinate commands.

Indicate by an X, the answer to each of the questions below. If a question is not applicable to the command, indicate by NA in the YES block. Explain or describe the conditions warranting any NO answer in the space provided at the end of the checklist or on additional sheets, if necessary.

The location of the reference for any question is provided at the end of the question.

	YES	NO
GENERAL		
1. Does the ship conduct operations, in port and at sea, in such a manner as to minimize or eliminate any adverse impact on the marine environment? (19-2.2.1)		
2. If a State or local inspector has requested access to inspect the ship, have the following procedures been followed:		
a. Were the inspector's credentials confirmed?		
b. Did the inspector identify spaces or work sites to which access was requested?		
c. Did the inspector make known the nature of the activity to be examined and its relationship to regulations? Was counsel consulted if there were any question on the applicability of the law or regulation to ships?		
d. If the issue is a result of contractor actions aboard ship, did a representative of the contractor accompany the inspector and ship representative?		
e. If practical, did the ship suggest off-ship alternatives that involved similar operations or training demonstrations conducted ashore?		
f. If off-ship alternatives were not practical, did the commanding officer approve inspections which did not involve access by inspectors to classified or restricted information, equipment, technology, or operations? (19-2.2.3.1)		

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		YES	NO
3.	If an inspector requested access to sensitive areas such as spaces containing cryptographic equipment, sonar systems, or NNPS or NNPI and the commanding officer concluded that a legitimate requirement existed for such access, was a message request for access forwarded to CNO (N45) with information copies to the fleet CINC and type commander? (19-2.2.3.2)		
4.	If an inspector requested access to sensitive areas and the commanding officer determined that the inspector did not have a requirement for access to the spaces or information, but the inspector did not agree with that determination, was the issue promptly referred up the chain of command for resolution by CNO (N45/N00N)? (19-2.2.3.3)		
5.	Has the ship complied with the provisions of Appendix C of this instruction regarding notices of violation or other expressions of environmental concern by regulators? (19-2.2.4)		
6.	Has the ship accomplished a self evaluation of environmental compliance procedures, practices, and training on an annual basis? Was the Afloat Environmental Checklist used to assist in the performance of this evaluation? (19-2.2.5a(1), 19-14.10z)		
7.	Do all hands shall receive environmental training upon reporting aboard (I Division or School of the Boat) and annually thereafter? (19-2.2.6a)		
8.	Does all hands environmental training include: a. The Navy's commitment to environmental protection? b. The command environmental program, including pollution prevention, solid waste handling and minimization, plastics management, recycling, air pollution (including ozone depleting substances (ODSs)) and oil and hazardous substance spill response? c. The member's responsibility with regard to this program? (19-2.2.6a)		
9.	Do watch officers responsible for authorizing the overboard disposal of shipboard wastes receive training on the prohibited zones for the discharge of shipboard wastes as a part of the qualification for the watch? (19-2.2.6b)		
10.	Has interest expressed by environmental regulators in discharges from the ship been reported by message to CNO (N45) and the chain of command? (19-2.2.7b, 19-14.10x)		

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		YES	NO
11.	When operating in foreign territorial waters or when visiting foreign ports, does the ship abide by environmental provisions contained in port visit clearances and/or in status of forces agreements (SOFA)? (19-2.2.8)		
12.	When port visit clearances and SOFAs either did not exist or did not provide sufficient guidance, did the ship attempt to abide by the corresponding requirement for U.S. navigable waters or ports, or if compliance with the corresponding U.S. requirement was determined to not be feasible due to lack of offload facilities, environmental services, or some other cause, did the ship operate in a manner consistent with the environmental practices of host nation warships? (19-2.2.8)		
SEWAGE			
13.	Are installed MSDs properly operated and maintained so as to prevent the overboard discharge of untreated or inadequately treated sewage, or of any waste derived from sewage (i.e., sludge), into the waters within 0-3 nm of U.S. shores? (19-3.4.2a, 19-14.10a)		
14.	Is the ship's sewage system certified? (19-14.10a)		
15.	Are the ship's MSDs operated so they collect only sewage while present within 0-3 nm of U.S. shores? (The collection of graywater would significantly reduce tank holding capacity and might result in the unnecessary overboard discharge of sewage before reaching pier facilities or unrestricted waters.) (19-3.4.2b)		
16.	Does the ship collect graywater in installed MSDs while in port? (If not equipped to collect graywater, graywater may be discharged directly overboard in port.) (19-3.4.2c)		
17.	Does the ship ensure that used solvents or other industrial wastes are not piped to MSDs or dumped down sinks or deck drains? (Used solvents and industrial wastes shall be packaged for disposal ashore.) (19-3.4.2g)		
18.	While visiting Navy ports, does the ship periodically pump collected sewage and graywater to shoreside reception facilities? (The shore activity should provide the transfer hoses and associated fittings to connect the ship discharge line with the shore equipment.) (19-3.4.3a)		
19.	While visiting non-Navy ports, does the ship request sewage reception facilities in LOGREQs or other pertinent documentation? (Pier sewers shall be used when available. If the sewers are not available, other sewage collection facilities such as barges or tank trucks should be used unless impractical to do so.) (19-3.4.3b)		

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		YES	NO
20.	If the ship has been required to discharge sewage overboard within 3 nm of shore, have the following conditions been observed: a. The ship's transit time within 0-3 nm of U.S. shores was of such duration that holding capacity was exceeded. Any necessary sewage discharges were minimized and were accomplished as far as possible from land? b. The ship was conducting or participating in military operations or exercises (including training or readiness evolutions) within 0-3 nm of U.S. shores, and operational effectiveness of the mission would have been impaired by terminating operations for sewage offload pierside or beyond 3 nm from shore? c. The ship was anchored or moored where sewage reception facilities or services were not reasonably available, or where use of such services or facilities was not feasible because of foul weather, poor visibility, or unsafe environmental conditions, and where on board retention of sewage was not practicable? d. The ship's MSD was inoperable because of equipment malfunction or maintenance, its use would have interfered with an overhaul or repair effort, or its use would have posed a hazard to the health or welfare of the crew? (19-3.4.4)		
21.	Were the periods in which the ship has been required to discharge sewage overboard within 3 nm of shore been held to an absolute minimum? (19-3.4.4)		
22.	Has the ship reported, as required and established by the chain of command, sewage discharges into U.S. navigable waters (0-3 nm from shore)? (19-14.10h)		
23.	Were underway discharges of sewage overboard within 3 nm of shore made as far as possible from shore? If the ship was in port, was the concurrence of the shore activity environmental manager obtained prior to the overboard discharge of sewage? (19-3.4.4)		

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		YES	NO
24.	Are personnel who operate or maintain sewage disposal or transfer equipment trained on the proper procedures for sewage disposal, including hookup and transfer of sewage to shore facilities prior to personnel being allowed to operate and maintain such systems? (This training should include the environmental restrictions placed on the transfer of sewage, sewage spill contingency planning, and liquid effluent discharge restrictions that pertain, including the relationship between national and State requirements.) (19-3.5, 19-14.10e)		
25.	Has the ship ensured that periodic inspections (at least quarterly) are conducted per NAVMED P-5010-7 (NOTAL) by senior medical department personnel to maintain sanitary and hygienic conditions of MSD systems and operational practices? (19-14.10f)		
26.	While in drydock, was an officer or petty officer appointed to oversee drydock operations to ensure that industrial waste and sewage collection and treatment systems were properly operated and maintained, and that ship-to-shore transfers of the waste were handled in a safe and effective manner? (19-14.10r)		
AIR			
27.	Has the ship been operated and maintained to comply with applicable Federal, State, and local regulations governing air pollution emissions? (19-4.2.1, 19-14.10b)		
28.	Have reports been made to the fleet commander of any conditions or system/equipment malfunctions that could result in unlawful air pollutant emissions? (19-14.10i)		
29.	While at pierside, has the ship implemented operation and maintenance procedures to prevent stack emissions in violation of State and local regulations? (Specifically, ships must comply with regulations on the opacity of smoke during normal operation of boilers and special periods, such as lighting off, securing, baking out, or testing of boilers.) (19-4.2.2a)		
30.	While In port, has the ship minimized operation of boilers and diesel engines by using shore-provided "hotel" services whenever operational requirements permit? (Blowing of boiler tubes in port must be limited to the minimum necessary to conform with provisions of NSTM Chapter 221.) (19-4.2.2b)		

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		YES	NO
31.	Are only approved solvents, paints, fuels, lubricants, and chemicals used aboard ship? (A list of materials prohibited on ships is included in OPNAVINST 5100.19C. HM approved for use aboard ship may be found in the Ships Hazardous Material List (SHML). For submarines, additional restrictions may be placed on solvents, paints, fuels, lubricants, and other chemicals by the Nuclear Powered Submarine Atmosphere Control Manual (S-9510-AB-ATM-010/(U)).) (19-4.2.2c)		
32.	Has ship's force been restricted from performing shipboard asbestos removals within U.S. territorial waters? (19-4.2.2d)		
33.	Has any asbestos material removed during shipboard emergency ripouts or repair actions performed by ship's force at sea been properly containerized and disposed of without release of asbestos fibers into the environment (see OPNAVINST 5100.19C, Chapter B1)? (19-4.2.2d)		
34.	In preparation for disposal ashore, has asbestos residue been adequately wetted prior to double bagging in heavy-duty (6 mil thickness) plastic bags or other suitable impermeable containers? (All bags or containers shall be provided with standard asbestos danger labels.) (19-4.2.2d)		
35.	Are ODSs recovered prior to maintenance performed on air conditioning and refrigeration systems and on fire protection systems using halons wherever possible? (19-4.2.2e)		
36.	Are only maintenance personnel trained in minimizing loss of ODS performing maintenance on equipment containing such substances. (Where such procedures have been established, maintenance personnel shall use only approved procedures for minimizing loss of ODS, regardless of where the ship may be located.) (19-4.2.2e)		
37.	Is the use of ODS-containing solvents for shipboard equipment and facility maintenance restricted to those procedures specifically authorized? (19-4.2.2f)		
38.	Are personnel whose watch duties may result in air pollution (for example, diesel engine operators, boilermen, or gas turbine operators) trained in the minimization of air pollution as a part of the watch qualification? (19-4.2.3a)		
39.	Are personnel whose task assignments may result in air pollution (for example, ship painting or the use of volatile solvents) trained on the proper use of the material prior to performing the task to minimize the release of pollutants? (19-4.2.3b)		

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		YES	NO
40.	Are personnel who perform maintenance on air conditioning and refrigeration equipment certified on handling, recovery, and recycling of ODSs, and receive training on ODS regulations as well as spent/recyclable ODS labeling prior to performing these duties? (19-4.2.3c)		
41.	Are personnel required to work with ODSs (e.g., halons and solvents) trained on methods of preventing their release prior to being assigned to such work? (19-4.2.3d)		
	OIL AND OILY WASTE		
42.	Are ship discharges that produce a sheen prohibited within the territorial sea and contiguous zone of the U.S.? (19-5.4.1)		
43.	When operating in MARPOL Annex I special areas (Mediterranean, Black, Baltic, Red Seas, and Persian Gulf) has the ship refrained from discharging any oil or oily waste to the extent practicable without endangering the ship or impairing its operations or operational effectiveness? (19-5.4.2)		
44.	If equipped with an OWS and OCM, has the ship attempted to limit oil and oily discharges to 15 ppm of oil world wide? (19-5.4.2a)		
45.	If the ship is equipped with OWSs but without OCMs, is all machinery space bilge water processed through an OWS system before discharge? (19-5.4.2b)		
46.	Has the engineering log or equivalent oil record book be used to record any oily waste discharge not processed through an OWS system (if installed), any discharge that an OCM determines to exceed the established standards, and any major OWS or OCM equipment failures? (19-14.10k)		
47.	If the ship is does not have an OWS system but is equipped with an oily waste holding tank (OWHT), is all oily bilge water directed to the OWHT for shore disposal when practicable? (19-5.4.2c)		
48.	If the ship has neither an OWS system or OWHT, is all oily bilge water retained for shore disposal, when possible? Are discharges permitted beyond 50 nm from the nearest land if operating conditions are such that oily bilge water discharge must be disposed of at sea? (Such discharges of oily bilge water shall take place only while the ship is underway.) (19-5.4.2d)		
49.	For Submarines. Is all oily waste pumped to the WOCT? Does the ship pump the bottom, water phase of the WOCT overboard when the tank is full, after allowing for adequate separation time, and the ship is outside 50 nm? (19-5.4.2e)		

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		YES	NO
50.	For Submarines. Does the ship have written procedures to ensure that the upper, oily phase of the WOCT is not pumped, except to a shore collection facility? (19-5.4.2e)		
51.	Are reports made to the fleet commander of any conditions or system/equipment malfunctions that would necessitate oily waste discharge into waters in which discharge is restricted? (19-14.10j)		
52.	Were all oil pollution abatement equipment/systems inspected and issued a user's certificate to verify proper installation and operation? (19-5.4.3)		
53.	Is the oil contamination in ship's bilge water reduced to a minimum? (Mechanical seals in oil and water pumps and proper segregation of oily and non-oily wastewater will greatly reduce the generation of oily waste.) (19-5.4a(1))		
54.	Are bilge cleaners or chemical agents that promote chemical emulsion (i.e., detergents and surfactants) prohibited to enable OWSs to perform more effectively? (Short-lived detergents are recommended for bilge cleaning.) (19-5.4a(2))		
55.	In port, are oily wastes that contains chemical emulsion agents offloaded to shore receiving facilities? Are such wastes prohibited from being discharged to shoreside donuts (oil disposal rafts)? (19-5.4a(3))		
56.	While in port, is oily bilge water disposed of using one or more of the following approaches: a. If equipped with bilge water OWS and OCM systems, are these system being used (provided the effluent does not cause a sheen nor causes a violation of any other applicable water quality standard)? b. Where adequate shore oil waste collection lines are provided and an OWS is not installed or operable, are oily bilge wastes being pumped directly ashore? c. If the ships is either not equipped with or has an inoperable bilge OWS systems and shore oil waste collection lines are not available are SWOB system being used for collecting and handling oils and oily wastes? (19-5.4.4a(4))		
57.	Are eductors prohibited from dewatering bilges containing oily waste, except in emergency situations when OWS systems (including OWHTs) are not available or are not of sufficient capacity to handle the immediate flow requirements? (19-5.4.4a(5))		

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		YES	NO
58.	If an eductor was used for dewatering bilges containing oily waste, was every effort made to discharge beyond 12 nm from land and while the ship was underway? (19-5.4.4a(5))		
59.	If an eductor was used for dewatering bilges containing oily waste, was an engineering log entry made concerning eductor use to discharge bilge waste overboard? (19-5.4.4a(5))		
60.	Have ship's personnel made maximum use of available port facilities for disposal of all waste/used oil products prior to departing from and upon returning to port? (19-5.4.4b(1))		
61.	Is used lube oil collected, separately stored, and labeled for eventual shore reclamation? (Lube oils shall not be discharged into the bilge or OWHTs or waste oil tanks.) (19-5.4b(2))		
62.	Are synthetic lube oils and hydraulic oils collected separately from other used/waste oils? (Ships that do not have a system dedicated to collect used synthetic oils shall use 5- or 55-gallon steel containers, properly labeled per OPNAVINST 5100.19C for eventual shore recycling.) (19-5.4b(3))		
63.	Are containers (such as drums, cans, etc.) in which oil products were originally packaged retained and properly labeled per OPNAVINST 5100.19C for storing and transferring oil ashore? (19-5.4b(4))		
64.	Are fueling, defueling, internal fuel transfer, and oil offloading operations in restricted waters accomplished during normal daylight working hours, when operating schedules permit, and conducted by well trained personnel? (19-5.4.4c)		
65.	During fueling/defueling, are topside watches maintained at all locations of possible spills and shall have a direct communication to fuel transfer pump stations? (19-5.4.4c(1))		
66.	During fueling/defueling, are check-off lists and procedures established for valve alignment and transfer operations? (All transfer system valves shall be double-checked.) (19-5.4.4c(2))		
67.	During fueling/defueling, are all oil transfer participants qualified to perform the detailed transfer procedures? (19-5.4.4c(3))		
68.	During fueling/defueling, is each tank level continuously monitored while it is being filled with fuel? (Remote tank-level indicators shall be used as the primary method of obtaining tank levels.) (19-5.4.4c(4))		

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		YES	NO
69.	Prior to actual fuel transfer, do transfer personnel inform the responsible ship's officer (commanding officer, command duty officer, or officer of the deck) and the fuel supplier that the ship is ready to commence fueling operations? (19-5.4.4c(5))		
70.	Are eductors prohibited from being used to strip fuel or cargo tanks? (19-5.4.4d(1))		
71.	If equipped with fuel tank stripping systems, are the strippings discharged to contaminated fuel settling tanks (CFSTs) for reuse? Are fuel tank strippings prohibited from being discharged overboard? (19-5.4.4d(2))		
72.	Are bilge water and waste or other wastewater prohibited from being discharged into CFSTs? (19-5.4.4d(3))		
73.	If the ship discharged oily bilge water directly to the sea, was it a situation in which shipboard oily waste processing equipment was inoperable due to equipment malfunction, the on board retention of such water would pose a safety hazard, and while operating in waters beyond 50 nm from land? (19-5.4.5a)		
74.	If the ship discharged oily bilge water directly to the sea, was the discharge conducted only after a concerted effort made to repair the equipment malfunction? (19-5.4.5a)		
75.	If the ship discharged oily bilge water directly to the sea, were the details of the discharge (nature, quantity and geographic location) duly noted in the engineering log? If the discharge caused a sheen, was the cause determined and did the engineering log entry state the time, date, ship location at the beginning and end of the incident, substance discharged, quantity discharged, and the cause of the discharge? (19-5.4.5a and b, 19-14.10k)		
76.	If discharge of oily bilge water directly to the sea was a result of an equipment casualties that either threatened or resulted in a discharge of oily water, was that casualty reported through the Casualty Report (CASREPT) system? (The initial report should have noted the potential for discharge. All subsequent status reports should have reported the frequency and approximate amount of actual discharges.) (19-5.4.5a)		
77.	If the ship discharged directly overboard oily waste from isolated spaces, such as JP-5 pump rooms, because the ship does not have the capability to collect and transfer such waste for processing through the OWS system, was the ship operating in waters beyond 50 nm from land, did such discharges contain only distillate (non-persistent) oils, and did the discharges result in minimal quantities of oily waste being discharged? (19-5.4.5c)		

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		YES	NO
78.	Are personnel who receive, transfer, or dispose of oil products or supervise these evolutions trained on the proper procedures for connecting and disconnecting systems to other ships or shore facilities, transferring of oil or oily waste, maintenance of transfer equipment (including the oil/water separator and associated equipment) and oil spill response procedures prior to performing these duties? (19-5.6, 19-14.10e)		
HAZARDOUS WASTE (HW) AND HAZARDOUS MATERIAL (HM)			
79.	Has the commanding officer designated an officer as HM coordinator to ensure that all shipboard personnel comply with OPNAVINST 5100.19C requirements for HM handling, packaging, storing, labeling, treating, and disposal? (19-14.10l)		
80.	Is the HM coordinator required to reconcile all HM left on the pier prior to the ship leaving port? (19-14.10l)		
81.	Are steps taken to ensure that the ship is operated and maintained to conform with applicable State and local HM regulations? (19-14.10b)		
82.	Are ships force personnel prohibited from discharging untreated used or excess HM generated aboard ship overboard within 200 nm of land? (Detailed guidance for HM discharges is provided in OPNAVINST 5100.19C.) (19-6.4.1a)		
83.	Does the ship have procedures to report to the fleet commander any conditions or system/equipment malfunctions that would necessitate HM discharge into waters in which discharge is restricted? (19-14.10j)		
84.	To the maximum extent practicable, are ships force personnel encouraged to retain used/excess HM on board for shore disposal? (19-6.4.1a)		
85.	Does the ship prohibit used/excess HM be collected from other ships or HW from shore facilities being transported to sea for the purpose of disposal? (19-6.4.1b)		
86.	Is labeling, handling, and storing of HM accomplished per OPNAVINST 5100.19C, Chapters B3, C23 (surface ships), and D15 (submarines)? (19-6.4.1c)		
87.	Is labeling, handling, and storing of PCBs and items containing PCBs accomplished per NSTM Chapter 593, the NAVSEA Shipboard Management Guide for Polychlorinated Biphenyls (PCBs), NAVSEA S9593-A1-MAN-010, and applicable PCB Advisories? (19-6.4.1d)		

Information Handling Services. DODSTD Issue 96-05.

		YES	NO
88.	Are procedures established in which any used HM received from another ship within U.S. territorial waters is turned over to a supporting shore activity for processing within 90 days of receipt? (19-6.4.1e)		
89.	Prior to transfer ashore, is used HM properly segregated, containerized, and labeled per OPNAVINST 5100.19C, Chapters B3, C23 (surface ships), and D15 (submarines)? (19-6.4.2a)		
90.	Are containers of used HM filled normally with only one type of HM (i.e., all the used HM in a container shall normally be of only one stock number (except where different stock numbers are issued to specify different sized containers))? (19-6.4.2a)		
91.	If the contents of the container are unknown, do container labels so state? (The cost of chemical analysis to determine specific content is required to be paid out of fleet accounts.) (19-6.4.2a)		
92.	When visiting Navy ports, does the ship request used/excess HM pickup by the cognizant shore activity representative (the HOT Team)? (19-6.4.2b)		
93.	Is person-to-person contact required during the actual transfer of HM to the shore activity? (19-6.4.2b)		
94.	Does ship's force provide used HM in a suitable container (either the original container or one specified in OPNAVINST 5100.19C, Appendix B3-D) that is properly labeled, is accompanied by an MSDS (if the material originated outside the supply system or an MSDS is unavailable in the Hazardous Material Information System (HMIS)) and a completed DD 1348-1 at the time of transfer? (19-6.4.2b)		
95.	When visiting a non-Navy ports or foreign port, does the ship offload used HM only when it is necessary and feasible? (If unable to find adequate facilities at non-Navy ports, the ship shall hold HM for offloading at a Navy port. All HM shall be properly labeled and containerized. If offload is necessary in foreign ports, commanding officers must ensure compliance with applicable customs laws and the SOFA.) (19-6.4.2c)		
96.	Prior to entering a private shipyard for an availability, did the ship ensured, to the maximum extent feasible, that used/excess HM was off-loaded at a Navy or other public facility? (19-6.4.2d(1), 19-14.10s)		

Information Handling Services. DODSTD Issue 96-05.

		YES	NO
97.	Prior to entering a private shipyard for an availability, did the ship identify to the SUPSHIP responsible for the private shipyard a ship HM coordinator for the availability? (This individual should be given authority and resources to ensure shipboard compliance with HM and HW management procedures and site specific management practices established by the SUPSHIP.) (19-6.4.2d(2), 19-14.10t)		
98.	Prior to entering a private shipyard for an availability, did the ship identify to the SUPSHIP during preavailability planning conferences the types and amounts of HW expected to be generated by ship's force during the availability? (19-6.4.2d(3), 19-14.10u)		
99.	During a private shipyard for an availability, did the ship comply with all established HM and HW management practices and those site specific procedures delineated by the SUPSHIP? (19-6.4.2d(4), 19-14.10v)		
100.	If used HM was received within U.S. territorial waters from another ship for eventual shore processing, was the HM offloaded to a shore facility prior to 90 days? (Tenders, this includes transfer from another ship while in port.) (19-6.4.3)		
101.	Are the procedures for transferring used HM from one ship to another at sea contained in OPNAVINST 5100.19C followed? (19-6.4.3)		
102.	Has the ship established procedures prohibiting the acceptance of HW from shore facilities in the U.S. for transportation to another location.? (19-6.5)		
103.	If HW was accepted from a shore activity outside the U.S. for transportation to the U.S. or to a foreign country, was it specifically tasked by competent authority? Did the authority include specific instructions on procedures to be used to ensure proper notice to the receiving authorities and compliance with applicable laws and regulations at the destination? (19-6.4.4)		
104.	Are personnel who handle, store, and dispose of HM trained per OPNAVINST 5100.19C, Chapter B3? (19-6.5, 19-14.10s)		
105.	Does the ship ensure during paint removal operations (to the maximum extent feasible) that the debris, dust, or residual materials from the paint		

98. Prior to entering a private shipyard for an availability, did the ship identify to the SUPSHIP during preavailability planning conferences the types and amounts of HW expected to be generated by ship's force during the availability? (19-6.4.2d(3), 19-14.10u)

99. During a private shipyard for an availability, did the ship comply with all established HM and HW management practices and those site specific procedures delineated by the SUPSHIP? (19-6.4.2d(4), 19-14.10v)

		YES	NO
SOLID WASTE			
106.	Does the ship have procedures to report to the fleet commander any conditions or system/equipment malfunctions that would necessitate solid waste discharge into waters in which discharge is restricted? (19-14.10j)		
107.	Does the ship minimize the volume of plastic material taken to sea that may become waste while at sea? (19-7.3.1a)		
108.	When available, does the ship use combat logistics force (CLF) ships to transfer non-food contaminated plastic waste ashore rather than disposing overboard? (19-7.3.1b)		
109.	When transferring non-food contaminated plastic waste to another ship, did the ship contact the receiving ship to determine that space was available to accommodate the plastics wastes.? (No waste shall be transferred without the receiving ship's concurrence.) (19-7.3.1b(1))		
110.	When transferring non-food contaminated plastic waste to another ship, did the ship ensure that only non-food contaminated plastics was transferred? Does the ship have procedures to ensure that packages do not contain articles such as food contaminated plastics, other trash, garbage, and hazardous material? (19-7.3.1b(2))		
111.	When transferring non-food contaminated plastic waste to another ship, did the ship package the plastics waste in a manner to permit safe handling by both the sending and receiving ships? (Securely banded triwalls are the preferred method of transferring non-food contaminated plastics wastes. If compactors are installed aboard, plastics waste should be compacted prior to packaging.) (19-7.3.1b(3))		
112.	When transferring non-food contaminated plastic waste to another ship, did the ship clearly mark the content of non-food contaminated plastic waste packages on the outside? (19-7.3.1b(4))		
113.	Does the ship retain food contaminated plastics on board for shore disposal during the last 3 days prior to entering port? (19-7.3.1c)		
114.	Does the ship retain non-food contaminated plastics on board for shore disposal during the last 20 days before entering port? (19-7.3.1c)		
115.	For Surface Ships. Does the commanding officers personally approve any plastics discharge which does not conform to the 3 and 20 day requirements? (19-7.3.1c, 19-14.10aa)		

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		YES	NO
116.	If discharge of plastics are required at sea, does the ship prohibit plastics discharges within 50 nm of land? (19-7.3.1c)		
117.	Has the ship reported any discharge of plastic not in compliance with the 3/20 day rule to the fleet commander per fleet reporting guidelines? (19-7.3.1c)		
118.	If the ship has an operable plastic processor, is the discharge of plastics at sea prohibited? (19-7.3.1d)		
119.	For Submarines. Are plastics discharges limited to the minimum amount practicable? Are buoyant garbage discharges prohibited? (19-7.3.1e)		
120.	Is any discharge of plastic recorded in the ship's deck log? Does the log entry include the date, time, and location of discharge, approximate weight and cubic volume of the discharge, and nature of the material discharged? (19-7.3.1f, 19-14.10aa)		
121.	Are garbage discharges prohibited within 3 nm of any coastline? (19-7.3.2a)		
122.	Is the discharge of pulped garbage permitted beyond 3 nm of the U.S. coast? (19-7.3.2b)		
123.	Is pulped garbage discharge into shipboard MSDs permitted only when the ship is docked and when the MSDs are discharging to pier facilities? (19-7.3.2b)		
124.	Is the use of garbage pulpers prohibited within 3 nm of any U.S. coastline in order to maximize necessary sewage holding capacity and to preclude inadvertent overboard discharges of sewage? (19-7.3.2b)		
125.	Is the discharge of compacted or unprocessed garbage permitted only beyond 25 nm from the U.S. coastline? (19-7.3.2c)		
126.	For Submarines. Is the discharge of compacted, sinkable garbage permitted between 12 nm and 25 nm, provided that the depth of the water is greater than 1,000 fathoms? (19-7.3.2d)		
127.	For Surface Ships. If equipped with an incinerator, is it used only when operating beyond 12 nm from land for the disposal of non-plastic and non-hazardous garbage only? (19-7.3.2e)		
128.	Does the ship prohibit any material being taking on in port for the purpose of dumping it at sea unless prior permission has been obtained from CNO (N45)? (19-7.3.2f)		

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		YES	NO
129.	Are surplus materials which can reasonably and safely be stored on board, such as damaged equipment or office furniture, retained aboard for shore disposal? (19-7.3.2g)		
130.	Upon completion of operations in special areas that are in-effect, has the ship reported the following information to CNO (N45) and the chain of command regarding all discharges *other than food waste* made into the in-effect special area: Date of discharge; special area involved; and nature and amount of discharge (estimated pounds of plastic, metal, wood paper, glass, ceramic or other non-food material)? (Negative reports are required.) (19-7.3.3)		
131.	Does the ship comply with USDA regulations pertaining to the entry by ships of any foreign source garbage into the U.S., its territories, and possessions? (19-7.3.4a)		
132.	Is all produce returning from foreign ports disposed of at sea beyond 25 nm from shore? If not disposed of beyond 25 nm of shore, is such produce segregated as food wastes and dry materials (packaging, etc.) for special disposal ashore using a USDA-approved methods? (19-7.3.4c)		
133.	Are personnel responsible for handling ship's garbage trained on the discharge restrictions applicable to this waste prior to assignment? Does such training include the proper collection, treatment, and disposal of plastics waste? (19-7.4a)		
134.	Are personnel responsible for the supervision and approval of overboard disposal of solid waste trained on the legal requirements applicable to this waste category? (19-7.4b)		
	MEDICAL WASTE		
135.	Does the ship have procedures to ensure that no medical materials are disposed of in a manner that would pose a risk or perception of a risk to the public health and welfare or to the marine environment? (19-14.10d)		
136.	Is infectious medical waste steam sterilized, suitably packaged, and stored for disposal ashore? (19-8.3a)		
137.	Has overboard discharge of infectious medical waste been limited to situations in which retention of potentially infectious wastes could have endangered the health and safety of personnel on board, created an unacceptable nuisance condition, or compromised combat readiness? (19-8.3a)		

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		YES	NO
138.	If infectious medical waste has been discharged overboard, was the waste (excluding sharps) steam sterilized (not applicable to submarines), packaged for negative buoyancy, and discharged beyond 50 nm? (19-8.3a)		
139.	Have administrative records been maintained for instances of overboard discharge of infectious medical wastes? (19-8.3a)		
140.	Is shipboard labeling, handling, and storage of potentially infectious medical waste conducted per the Afloat Medical Waste Management Guide, OPNAV P-45-113-91? (19-8.3b)		
141.	Has infectious paper and cloth-based medical waste been incinerated after steam sterilizing, if this capability exists? (19-8.3c)		
142.	Are sharps collected in plastic autoclavable sharps containers? (Never recap, clip, cut, bend, or otherwise mutilate needles or syringes to avoid causing accidental puncture wounds and infectious aerosols.) (19-8.3d)		
143.	Are all sharps retained on board for proper disposal ashore? Are unused sharps disposed of ashore in the same manner as medical waste? (19-8.3d)		
144.	Are plastic and wet medical waste materials prohibited from being incinerated? (19-8.3e)		
145.	Is non-infectious medical waste disposed of as garbage (does not require steam sterilizing or special handling)? (19-8.3g)		
146.	If non-infectious medical waste is disposed of at sea, was it weighted for negative buoyancy to ensure it will not be washed ashore? (19-8.3g)		
147.	Are personnel responsible for the processing and disposal of medical waste trained to ensure that such actions comply with the requirements governing this waste? (19-8.4)		
	<u>OIL AND HAZARDOUS SUBSTANCE (OHS) SPILLS</u>		
148.	Are one or more shipboard action officers predesignated to be responsible for shipboard spill/release contingencies planning and response? (19-14.10m)		
149.	Are ship's personnel prepared to initiate immediate actions to mitigate the effects of the spill? (19-9.2.4, 19-14.10q)		

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		YES	NO
150.	Does the ship have the COMNAVSEASYSCOM-developed shipboard oil spill containment and clean-up kit and a similar kit for HM spill response aboard? Are they complete? (19-9.2.4)		
151.	Does the ship have an established shipboard spill/release contingency plan(s) by which (when a ship spill/release occurs) the ship immediately reports the incident to the cognizant shore facility commanding officer, the NOSC, and other officials? Do the plan(s) also contain procedures for containment, control, recovery, and disposal of spills, protective clothing, spill clean-up materials, information sources for oil and HS, and the names and telephone numbers of fleet as well as shoreside NOSCs? (19-9.2.4, 19-9.2.10, 19-14.10n)		
152.	Do the ship's OHS Spill Contingency Plans (SCPs) include spills/releases within the U.S. contiguous zone (Navy and non-Navy ports), outside the U.S. contiguous zone, and in waters of foreign countries? Do they contain the information in Chapter 19, OPNAVINST 5090.1B? (19-9.2.5, 19-9.2.6, and 19-9.2.7)		
153.	Do the ship's OHS SCPs include procedures for spills/releases which are environmentally significant? (19-9.2.8)		
154.	Does the ship have a copy of appropriate fleet spill contingency plans? (19-9.2.9)		
155.	Have the ship's SCPs and updates thereto been provided to the NOSC having responsibility over the ship's homeport? (19-9.2.10)		
156.	Are watch officers and other personnel assigned responsibilities as a part of the ship's OHS SCPs trained on responsibilities prior to being assigned? Is refresher training accomplished at least annually? (19-9.3a, 19-14.10o)		
157.	Have ship's personnel been exercised in OHS spill response procedures at least once per year? Has the ship considered in-port watch section response as well as shipboard response for this training? (19-9.3b, 19-14.10o)		
SHIP BALLAST WATER AND ANCHOR SYSTEM SEDIMENT CONTROL			
158.	If it was necessary for ship safety to load ballast water within an area which was potentially polluted, was the water offloaded outside of 12 miles from shore and clean sea water taken on and discharged two times prior to entry within 12 miles from shore? (19-10.3a, 19-14.10y)		

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		YES	NO
159.	Has the loading of ballast water in potentially polluted areas and flushing of ballast tanks to rid them of possible pollutants been entered into the ship's engineering log? Did the entry include the geographical position and the amount of ballast water taken on? (19-10.3a, 19-14.10y)		
160.	If the ship is equipped with a sea water compensated fuel stowage systems, was a record maintained for sea water intake occurring in prohibited zones during routine internal fuel transfer for propulsion plant operation? (19-10.3b)		
161.	Have anchors, chains, and appendages been routinely washed down with sea water when being retrieved to prevent on board collection of sediment, mud, and silt? Following anchor retrieval, have chain lockers also been washed down outside of 12 miles from land to flush out any sediment, mud, or silt. (19-10.3c)		
	PROTECTION OF MARINE MAMMALS		
162.	Does the ship prohibit the deliberate harassment of a marine mammal during its operations? (19-11.3)		
163.	Is the protection of marine mammals taken into consideration during operations and planning? (19-11.3)		
	FLOATING DRYDOCKS		
164.	Has spent sand, metals, wood, liquid wastes, solid wastes, and all other industrial wastes been periodically removed, using vacuum methods, from the floor of the drydock to shore facilities for disposal? (19-12.2a(1))		
165.	Has spent sand, metals, wood, liquid wastes, solid wastes, and all other industrial wastes been prevented from entering the air or surrounding waters? (19-12.2a(1))		
166.	Prior to flooding the dock, have all loose materials been removed and all floors and chainways vacuum cleaned? (19-12.2a(1))		
167.	If the floating drydocks equipped with industrial waste collection systems, have the systems been used to the maximum possible extent for processing waste from hull-blasting or anti-fouling paints? (19-12.2a(2))		
168.	If processed water is discharged into the sewer system or directly into surface waters, does such discharge comply with applicable Federal, State, and local regulations? (For discharges into the surface waters, it may require an NPDES permit.) (19-12.2a(2))		

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		YES	NO
169.	Where possible, is all sewage and graywater from the floating drydocks and host vessels being transferred ashore for proper disposal? (19-12.2b)		
170.	Has the commanding officer appointed an officer or petty officer to ensure that oil and oily waste collection and treatment systems are properly operated and maintained, and that ship-to-shore transfers of the waste are handled in a safe and effective manner? (19-14.10a)		
171.	Are drydock personnel working with oil pollution systems properly trained, attend appropriate schools, and are fully aware of associated documentation? (19-14.10b)		
172.	Does the commanding officer coordinate with the shore activity commanding officer to ensure compliance with State or local regulatory requirements? (19-14.10c)		
173.	Does the drydock report to the fleet commander any conditions or system/ equipment malfunctions that would necessitate solid waste discharge upon waters in which discharge is restricted? (19-14.10d)		
174.	Does the drydock ensure that drydock systems for the collection and transfer to shoreside receiving facilities of sewage and wastewater from the ship in dock and the drydock are properly operated, periodically inspected, and properly maintained as well as ensure that transfers of sewage and wastewater are handled in a safe and effective manner? (19-14.10e)		
NOISE			
175.	Is the use of powered tools, machinery, outboard loudspeakers, or any other devices that emit excessive noise, either directly or indirectly through reradiation, restricted to normal daylight working hours to the maximum possible extent? (19-14.2)		
MISCELLANEOUS			
176.	Has the ship ensured that appropriate health and sanitation precautions are posted as required by OPNAVINST 5100.19C, Gen Specs, NSTM Chapter 593, and NAVMED P-5010-7? (19-14.10g)		

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APPENDIX L

GLOSSARY

ACL: Alternate Concentration Limit

ACNO: Assistant Chief of Naval Operations

AECs: Area Environmental Coordinators

AESO: Aircraft Environmental Support Office

AFPMB: Armed Forces Pest Management Board

AHERA: Asbestos Hazard Emergency Removal Act

AICUZ: Air Installations Compatible Use Zone; established by DoD Directive 4165.57 of 8 November 1977 (NOTAL).

AMFA: Alternate Motor Fuels Act

AOR: Area of Responsibility

APM: Activity Pest Manager

APN: Aircraft Procurement, Navy

AQD: Air Quality District

ARARs: Applicable or relevant and appropriate requirements

ARPA: Archaeological Resources Protection Act

ASN (I&E): Assistant Secretary of the Navy for (Installations and the Environment)

AST: Aboveground Storage Tank

ATSDR: Agency for Toxic Substance and Disease Registry

BACM: Best Available Control Measures

BACT: Best Available Control Technology

BASH: Bird Aircraft Strike Hazards

BAT: Best Available Technology

BATEA: Best Available Technology Economically Achievable

BCP: BRAC Cleanup Plan

BCT: Best Conventional Technology

BDAT: Best Demonstrated Available Technology

BEC: BRAC Environmental Coordinator

BMP: Best Management Practice

BPCT: Best Practicable Control Technology

BRAC: Base Realignment and Closure

BUMED: U.S. Navy Bureau of Medicine and Surgery

CA: Cooperative Agreement

CA: Corrective Action

CAA: Clean Air Act

CAP: Corrective Action Plan

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CE: Categorical Exclusion

CEC: Civil Engineering Corps

CEQ: Council on Environmental Quality

CERCLA: Comprehensive Environmental Response, Compensation and Liability Act

CERFA: Community Environmental Response Facilitation Act

CFC: Chlorofluorocarbon

CFR: Code of Federal Regulations; codification of the general and permanent rules published in the Federal Register.

CFST: Contaminated Fuel Settling Tank

CHINFO: Chief of Information

CHT: Collection, holding and transfer system (for shipboard sewage and waste water)

CINC: Commander in Chief

CINCLANTFLT: Commander in Chief, U.S. Atlantic Fleet

CINCPACFLT: Commander in Chief, U.S. Pacific Fleet

CNET: Chief of Naval Education and Training

CNO: Chief of Naval Operations

CO: Commanding Officer

Coastal Zone: An area of Federal responsibility for response action under the National Contingency Plan; includes all U.S. waters subject to the tide, U.S. waters of the Great Lakes, specified ports and harbors on the inland rivers, waters of the contiguous zone, other waters of the high seas subject to the National Contingency Plan, and the land surface or land substrata, ground waters, and ambient air proximal to those waters.

COC: Chain of Custody

COE: Corps of Engineers, Army

COMNAVFACENGCOM: Commander, Naval Facilities Engineering Command

COMNAVSUPSYSCOM: Commander, Naval Supply System Command

COMSC: Commander, Military Sealift Command

CONUS: Continental United States

COTR: Contracting Officer's Technical Representative

CRP: Community Relations Plan

CTG: Control Techniques Guidelines

CWA: Clean Water Act

CY: Calendar year

CZARA: Coastal Zone Act Reauthorization Amendments

CZMA: Coastal Zone Management Act

DBOF: Defense Business Operations Fund

DCNO: Deputy Chief of Naval Operations

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DCO: Delay Compliance Order

DEIS: Draft Environmental Impact Statement

DEMIS: Defense Environmental Management Information System

DERA: Defense Environmental Restoration Account

DERP: Deficient Equipage Reporting Procedure

DESR: Defense Environmental Status Report

DFM: Diesel Fuel, Marine

DLA: Defense Logistics Agency

DMSO: Directors of Major Staff Offices

DOC: Department of Commerce

DoD: Department of Defense

DoDDIR: Department of Defense Directive

DOE: Department of Energy

DOI: Department of Interior

DOJ: Department of Justice

DOL: Department of Labor

DON: Department of the Navy

DOS: Department of State

DOT: Department of Transportation

DPM: Defense Priority Model

DQO: Data Quality Objectives

DRMO: Defense Reutilization and Marketing Office

DRMS: Defense Reutilization and Marketing Service

DSMOA: Defense/State Memorandum of Agreement

DUSD(ES): Deputy Under Secretary of Defense (Environmental Security)

EA: Environmental Assessment

EA: Executive Agent

ECE: Environmental Compliance Evaluation

ECP: Energy Change Proposal

ECRS: Environmental Compliance Reporting System

EE/CA: Engineering Evaluation/Cost Analysis

EFA: Engineering Field Activity

EFD: Engineering Field Division

EHM: Extremely Hazardous Material

EIS: Environmental Impact Statement

Emission Offset: Reduction in the air emissions from one source equal to or greater than the increase in emissions from another source.

Emission Standard: Permissible limit of air emissions established by Federal, state, and local authorities.

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EMR: Environmental Monitoring Report

EO: Executive Order

EOD: Explosives Ordnance Disposal

EPA: Environmental Protection Agency

EPACT: Energy Policy Act

EPCRA: Emergency Planning and Community Right-to-Know Act

ERA: Ecological Risk Assessment

ERC: Emission Reduction Credit

ESA: Endangered Species Act

Federal Register (FR): A document published daily, Monday through Friday, by the Office of the Federal Register, National Archives and Records Administration.

FEIS: Final Environmental Impact Statement

FEMA: Federal Emergency Management Agency

FFA: Federal Facility Agreement

FFCA: Federal Facility Compliance Act

FGS: Final Governing Standards

FIC: Facility Incident Commander

FIFRA: Federal Insecticide, Fungicide, and Rodenticide Act

FIP: Federal Implementation Plan

FMP: Fleet Modernization Program

FOIA: Freedom of Information Act

FONSI: Finding of No Significant Impact

FS: Feasibility study

FUDS: Formerly Used Defense Site

FWPCA: Federal Water Pollution Control Act

FY: Fiscal Year

Gal: Gallon

GOCO: Government-Owned-Contractor-Operated Facilities

GSA: General Services Administration

GWTP: Ground Water Treatment Plant

HABS/HAER: Historic American Buildings Survey/Historic American Engineering Record

HARP: Historic Archaeological Resources Protection

HAZCOM: Hazard Communication

HAZMIN: Hazardous Waste Minimization

HAZWOPER: Hazardous Waste Operations and Emergency Response

HM: Hazardous Material

HMC&M: Hazardous Material Control and Management

HMIS: Hazardous Material Information System

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HPP: Historic Preservation Plan

HRS: Hazard Ranking System

HS: Hazardous Substance

HSWA: Hazardous and Solid Waste Amendments

HW: Hazardous Waste

IAG: Interagency Agreement

IAS: Initial Assessment Study

IG: Inspector General

I/M: Inspection and Maintenance

IMO: International Maritime Organization (formerly IMCO)

IPM: Integrated Pest Management

IR: Installation Restoration

IRA: Interim Remedial Action

IRP: Installation Restoration Program

ISIC: Immediate Supervisor In Command

ISSA: Interservice Support Agreement

ISV: In-situ Volatilization

IWPP: Industrial Waste Pretreatment Process

IWTP: Industrial Waste Treatment Plant

JAG: Judge Advocate General

kg: Kilogram

KVA: Kilovolt-ampere

LAER: Lowest Achievable Emission Rate

LEPC: Local Emergency Planning Committee

LOGREQ: Logistics requirements

LTM: Long-term Monitoring

MACT: Maximum Achievable Control Technology

Major Claimant: A bureau/office/command headquarters that is designated as an administering office under the operation and maintenance appropriations in NAVCOMPT Manual, Volume 2, Chapter 2; receives major claimant operating budgets directly from the Fiscal Management Division (N82).

MARCORPS: U.S. Marine Corps

MARPOL: International Maritime Convention for the Prevention of Pollution from Ships

MBTA: Migratory Bird Treat Act

MCL: Maximum Contaminant Level

MESO: Marine Environmental Support Office

MILCON: Military construction

MO: Manual of Operation

MOA: Memorandum of Agreement

MOU: Memorandum of Understanding

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MPRSA: Marine Protection, Research and Sanctuaries Act

MRC: Maintenance Requirement Card

MSC: Military Sealift Command

MSD: Marine Sanitation Device

MSDS: Material Safety Data Sheet

MWR: Morale, Welfare, and Recreation

NAAQS: National Ambient Air Quality Standards

NACIP: Navy Assessment and Control of Installation Pollutants

NAGPRA: Native American Grave Protection and Repatriation Act

NAPC: Naval Air Propulsion Center

NAVAIRSYSCOM: Naval Air Systems Command

NAVCOMPT: Comptroller of the Navy

NAVCOMPTINST: Comptroller of the Navy Instruction

NAVFACENGCOM: Naval Facilities Engineering Command

NAVFACENGCOMEFA: Naval Facilities Engineering Command Field Activity

NAVFACENGCOM EFD: Naval Facilities Engineering Command Engineering Field Division

NAVOSH: Navy Occupational Safety and Health

NAVRESO: Navy Resale System Office

NAVSEASYSCOM: Naval Sea Systems Command

NAVSPAWARSYSCOM: Naval Space and Warfare Systems Command

NAVSUPSYSCOM: Naval Supply Systems Command

NCP: National Contingency Plan

NECIS: Navy Environmental Information System

NEHC: Navy Environmental Health Center

NEESA: see NFESC

NEPA: National Environmental Policy Act

NEPMG: Navy Environmental Program Management Group

NEPSS: Naval Environmental Protection Support Service

NESHAP: National Emission Standards for Hazardous Air Pollutants

NESO: Navy Environmental Support Office

NFESC: Naval Facilities Engineering Services Center

NFRAP: No Further Response Action Planned

NHPA: National Historic Preservation Act

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NIF: Navy Industrial Fund

NJAG: Navy Judge Advocate General

nm: Nautical mile

NMFS: National Marine Fisheries Service

NNPI: Nuclear Propulsion Plant Information

NNPS: Nuclear Propulsion Plant Space

NOAA: National Oceanic and Atmospheric Administration

NOI: Notice of Intent

N00N: Director, Naval Nuclear Propulsion Program

NON: Notice of Non-compliance

NOSC: Navy On-Scene Coordinator

NOSCDR: Navy On-Scene Commander

NOTAL: Not to All

NOTW: Navy Owned Treatment Works

NOV: Notice of Violation

NPDES: National Pollutant Discharge Elimination System

NPL: National Priorities List

NPS: Non-point source

NPS: National Park Service

NRC: National Response Center

NRC: Nuclear Regulatory Commission

NRHP: National Register of Historic Places

NRM: Natural Resources Management

NRMPM: Natural Resources Management Procedural Manual

NRT: National Response Team

NSPS: New Source Performance Standards

NSTM: Naval Ships Technical Manual

NSWC: Naval Surface Weapons Center

N45: Environmental Protection Safety and Occupational Health Division

OASN (I&E): Office of Assistant Secretary of the Navy (Installations & Environment)

OCM: Oil Content Monitor

ODS: Ozone-Depleting Substance

OEBGD: Overseas Environmental Baseline Guidance Document

OESO: Ordnance Environmental Support Office

OEW: Ordnance and Explosive Waste

OFPP: Office of Federal Procurement Policy

OGC: Office of the General Counsel

OHS: Oil or Hazardous Substances

OICs: Officers in Charge

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Oily Waste Water: An oil/water mixture that has a water content of greater than 50 percent. The mixture may also contain other non-petroleum matter.

OLA: Office of Legislative Affairs

OMB: Office of Management and Budget

O&M: Operations and Maintenance

O&MN: Operations and Maintenance, Navy

OPA: Oil Pollution Act

OPN: Other Procurement, Navy

OPNAV: Office of the Chief of Naval Operations

OPNAVINST: CNO instruction

OPORDS: Operational Orders

OPREP: Operational Report

OSC: On-Scene Coordinator

OSCDR: On-Scene Commander

OSD: Office of the Secretary of Defense

OSHA: Occupational Safety and Health Administration

OSOT: On-Scene Operation Team

OSRO: Oil Spill Removal Organization

O-SWOB: Oil-Ship Waste Offload Barges

OU: Operable Unit

OWHT: Oily waste holding tank

OWS: Oil/water separator

PA: Pollution abatement

PAH: Polynuclear Aromatic Hydrocarbon

PA/SI: Preliminary Assessment/Site Inspection

PCB: Polychlorinated biphenyl

PCB Article: Any manufactured article, other than a PCB container, that contains PCB and whose surface has been in direct contact with PCB; includes transformers and capacitors.

pCi/L: Picocurie per liter

PCQAE: Pest Control Quality Assurance Evaluator

PCR: Pollution Control Report

PIRP: Public Involvement and Response Plan

PL: Public Law

PMC: Pest Management Consultant

PMP: Pest Management Plan

POA&M: Plan of Action and Milestones

POC: Point of Contact

POL: Petroleum-Oil-Lubricant

POM: Program Objective Memorandum

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POTW: Publicly Owned Treatment Works

PPA: Pollution Prevention Act

ppb: Parts per billion

ppm: Parts per million

PRP: Potentially Responsible Parties

PSC: Potential Sources of Contamination

PSD: Prevention of Significant Deterioration

PWC: Public Works Center

PWD: Public Works Department

QA/QC: Quality Assurance/Quality Control

QAP: Quality Assurance Plan

QI: Qualified Individual

QRP: Qualified recycling program

RA: Remedial Action

RAB: Restoration Advisory Board

RACM: Reasonable Available Control Measures

RACT: Reasonably Available Control Technology

RCRA: Resource Conservation and Recovery Act

R&D: Research and Development

RD/RA: Remedial Design/Remedial Action

RDT&E: Research, Development, Test, and Evaluation

RECs: Regional Environmental Coordinators

RESO: Regional Environment Support Office

RFA: RCRA Facility Assessment

RI/FS: Remedial Investigation/Feasibility Study

RMA: Resource Management Area

ROD: Record of Decision

ROICC: Resident Officer in Charge of Construction

RPM: Remedial Project Manager

RRT: Regional Response Team

RSPA: Research and Special Projects Office

SARA: Superfund Amendments and Reauthorization Act

SARA Title III: Superfund Amendments and Reauthorization Act Title III (Emergency Planning and Community Right-to-Know Act)

SCN: Ship Construction, Navy

SCP: Spill Contingency Plan

SCR: Site Characterization Report

SDOSS: Sewage Disposal Operation Sequencing System

SDWA: Safe Drinking Water Act

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SECDEF: Secretary of Defense

SECNAV: Secretary of the Navy

SECNAVINST: SECNAV Instruction

SERC: State Emergency Response Commission

SESO: Ships Environmental Support Office

SHIPALT: Ship Alteration

SHPO: State Historic Preservation Office

SI: Site Inspection

SIC: Subject Identification Code

SINKEX: Sinking Exercise

SIP: State Implementation Plan

SJA: Staff Judge Advocate

SMSA: Standard Metropolitan statistical area

SOFA: Status of Forces Agreement

SONS: Spills of National Significance

SOP: Standard Operating Procedure

SOPA: Senior Officer Present Ashore (or Afloat)

SPCC Plan: Spill Prevention Control and Countermeasure Plan

ST: Storage Tank

SUPSALV: Supervisor of Salvage

SUPSHIPS: Supervisor of Shipbuilding

SWDA: Solid Waste Disposal Act

SWMU: Solid Waste Management Unit

SYDP: Six Year Defense Plan

TAG: Technical Assistance Grant

TCLP: Toxicity Characteristics Leaching Procedure

TPQ: Threshold Planning Quantity

TRC: Technical Review Committee

TSCA: Toxic Substances Control Act

TSDF: Treatment, Storage and/or Disposal Facility

UIC: Unit Identification Code

UORA: Used Oil Recovery Act

U.S.C.: United States Code

USCG: United States Coast Guard

USDA: United States Department of Agriculture

USFWS: U.S. Fish and Wildlife Service

USNPS: U.S. National Park Service

USNS: U.S. Naval Ship

UST: Underground Storage Tank

UXO: Unexploded Ordnance

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VOCs: Volatile Organic Compounds

VS: Verification Study

Water Quality Standards: Standards and related implementation plans that have been adopted by each of the states and approved by the Office of Water Programs of the EPA under the FWPCA as amended.

WOCT: Waste Oil Collecting Tank

WPN: Weapons Procurement, Navy

WQS: Water Quality Standard

YCC: Youth Conservation Corps

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